United States Court of Appeals

for the Second Circuit

TRANSCRIPT

75-7061

UNITED STATES COURT OF APPEALS

B

for the

SECOND CIRCUIT

TRINITY EPISCOPAL SCHOOL CORPORATION and TRINITY HOUSING COMPANY, INC.,

Plaintiffs-Appellants,

ROLAND H. HARLEN, ALVIN C. HUDGINS and CONTINUE,

Intervening Plaintiffs-Appellants,

v.

GEORGE ROMNEY, SECRETARY OF DEPT. OF HOUSING AND URBAN DEVELOPMENT, S. WILLIAM GREEN, REGIONAL ADMINISTRATOR, DEPT. OF HOUSING AND URBAN DEVELOPMENT, U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT, CHARLES URSTADT, COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, N.Y. STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, THE STATE OF NEW YORK, JOHN V. LINDSAY, ALBERT A. WALSH, HOUSING AND DEVELOPMENT ADMINISTRATION OF THE CITY OF NEW YORK, THE CITY PLANNING COMMISSION OF THE CITY OF NEW YORK, DONALD H. ELLIOTT, WALTER MCQUADR, IVAN MICHAEL, GERALD L. COLEMAN, CHESTER RAPKIN, MARTIN GALLENT, ABRAHAM D. BEAME, SANFORD D. GARELIK, PERCY E. SUTTON, ROBERT ABRAMS, SEBASTIAN LEONE, SIDNEY LEVISS, ROBERT T. CONNER and THE CITY OF NEW YORK,

Defendants-Appellees,

STRYCKER'S BAY NEIGHBORHOOD COUNCIL INC.,

Intervening Defendant-Appellee.

TRANSCRIPT

(Volume VII of IX - Pages 2835-3280)

UNITED STATES COURT OF APPEALS
FILED
FEB 1975

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757-5050

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TRINITY EPISCOPAL SCHOOL CORP., et al

-against- 71 Civ. 4315

GEORGE ROMNEY, et al

May 13, 1974
12:00 Noon

(Trial resumed)

THE COURT: Let's proceed.

MR. MORRIS: Your Honor, I have an application to make.

Mr. Gaynor, whose cross-examination was to be completed, has agreed to withhold the completion of his cross-examination pending the introduction of a witness that we have who has come from out of town. Mr. Foden has come down from Boston to testify today.

I would respectfully request leave of the Court to put Mr. Foden on and then take Mr. Gaynor after that.

THE COURT: Is there any objection to that?

(Counsel indicating in the negative)

THE COURT: All right.

MR. MORRIS: Mr. Baker, my associate, who has been with me on this trial, is a specialist in environ-

mental law. I would appreciate leave of the Court to have Mr. Baker examine Mr. Foden, who is an expert on environmental law.

THE COURT: If you wish to do that, it is all right.

MR. BAKER: Mr. Foden.

H A R R Y G . F O D E N , called as a witness by plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAKER:

Q Mr. Doen, where do you reside?

A 27 Samoset Road, Winchester, Massachusetts.

Q How long have you resided there?

A Seven and a half years.

Q Where are you employed?

A I am employed in Cambridge, Massachusetts, by Arthur D. Little, Inc.

Q For how long have you been employed by Arthur D. Little,Inc.?

A Twenty years this coming November.

Q What type of work is Arthur Little engaged in?

A It is research and management consulting organization.

Q How many professionals does Arthur D. Little employ?

A Approximately 800.

Q Is there a wide range of disciplines represented on the Arthur D. Little staff?

A Yes, almost all of the knowledged technical, scientific and related social sciencesand skills are represented among the professionals.

Q Thank you.

Mr. Foden, what is the nature of your employment at Arthur D. Little?

A I am a senior staff member in the public affairs center concerned primarily with projects for clients or what we call cases.

Q Mr. Foden, what is the case system?

A Under the case system as it is operated for any given problem which is brought to us by a client, a case team is organized under the direction of what we call a case leader, whose responsibility it is to assemble the necessary professional disciplines to carry full responsibility for that project on behalf of the client to be certain that the work is effectively

done within budget and in an attempt to answer that client's problem.

Q Have you been involved in organizing such case teams?

A Yes, I have, for almost twenty years.

Q How do you organize a case team?

A The team is basically organized by considering the nature of the problem, the type of professional skills which in the judgment of the case leader, in consultation with others on the staff, will be required, seeking those professionals within the staff who are felt to have the necessary qualifications, asking them for commitments of suitable amounts of time to work as part of the case team and, where necessary, augmenting that case team by outside consultants or subcontractor organizations.

Q Do you maintain a large list of such outside consultants who are on call to you?

A We have somewhere between 200 and 300 outside consultants on our rolls at any given time.

Q Is it fair to characterize you as the manager of study processes?

A Yes, I think that would be a fair characterization.

Q Do you have general responsibility to urban development issues at Arthur D. Little, Inc.?

A Yes, I do.

Q Do you have experience in housing projects?

A Yes, I do.

Q Do you have experience in urban development issues?

A Yes, sir, I do.

Q Would you briefly cite for the Court, Mr. Foden, several of your experiences in the housing field?

A Yes. Most recently I have been concerned with a project for the Worcester Housing Authority in Worcester, Massachusetts, which is a problem dealing with methods of effectively improving management of a housing authority. I have been the director of a major project for the Housing and Urban Development Department of the United States which was called Project Rehab in which we looked at large-scale urban rehabilitation in a number of cities across the country. I have been associated as part of a case team in two housing projects in Hartford, Connecticut, which were concerned with housing and the practicality of modular housing, as it is called, for low and moderate income groups, and have been involved in terms of other housing projects which Arthur D. Little has done as part of a team on a

more general basis but not as specifically as those projects which I have just named.

Q You mentioned Project Rehab, Mr. Foden. You mentioned that this is in a number of different cities.

A Yes, sir.

Q Could you tell the Court what cities this project is involved in?

A There are some 14 altogether. Those that I recall offhand are Pittsburgh, Detroit, Hartford, Los Angeles, Seattle, El Paso, Texas, Baltimore, Cleveland, New York, Philadelphia, Indianapolis, Memphis, Cincinnatti.

Q You had general responsibility for this project?

A I was the project director, yes, sir.

Q How much money was involved in the contract with the Department of Housing and Urban Development?

A $750,000.

Q Thank you. Have you been involved in the Model Cities program?

A Yes, I have and we have. At the early stages of Model Cities our group within Arthur D. Little sponsored a conference for some 13 cities who were preparing Model Cities applications. We published, as a result of that particular conference, a publication known as Strategies For Shaping Model Cities, which was rather widely distributed

by the Housing & Urban Development Department. We have assisted in various Model Cities groups throughout the country who were concerned with the development of specific Model Cities programs, among them being the United Planning Organization in Washington, D.C., Springfield, Massachusetts. We did also two programs for the Housing & Urban Development concerned with Model Cities programs, one being the role of the States in Model Cities and the other being technical assistance to selected cities in the New England area.

Q Approximately how much such cities were involved?

A I believe there were 10 to 12 cities in the New England area to whom technical assistance was provided.

Q Thank you. Community renewal programs, have you been involved with them?

A Yes, we have.

THE COURT: Mr. Baker, if I may interrupt. The outline is good, but you are taking it for granted that the Court takes judicial notice of what these undertakings encompass. The mere enumeration doesn't help me much. I would like to know just what does it consist of, what is the work done there.

Just calling it a rehab doesn't edify me.

MR. BAKER: Yes, sir.

THE COURT: If you don't mind. Let's have

some context.

Q Mr. Foden, let's talk about Project Rehab . Could you describe for the Court the content of that study?

A Yes. There were two principal purposes to the study. The Housing & Urban Development Department was attempting to see if it were possible to carry out on a large scale the rehabilitation of structures which had become decayed, which had shown the need for repair. We were asked to, first of all, determine and to actually prepare suitable training or orientation material which would convey to those interested in large scale rehabilitation what needed to be done to carry out an effective program. This was to be based on a thorough analysis of two or three large-scale rehabilitation programs which had been carried out up to that time, the most notable of which was in Boston, the Boston Rehabilitation Project.

Also the experience of the AHRCO Corporation in Pittsburgh, which had carried out the rehabilitation of a large number of structures, and also the experience, for example, of the City of Philadelphia which had been carrying out rehabilitation.

The second aspect of that particular project was to monitor and evaluate the efforts that were being made in the 14 cities, most of which I enumerated, to see

whether they were able to meet the timetable which the Housing & Urban Development Department had set forth, what the impediments were to their carrying out these projects, what specifically might be done to expedite the rate at which such projects could be undertaken.

As the result of that project, we prepared a very extensive set of audio-visual materials as well as written materials which could be given to developers and City agencies and to community organizations to acquaint them with the variety of problems that are associated with large scale urban rehabilitation and we also prepared a document for the Housing & Urban Development Department which gave them our conclusions as to the way in which the program was progressing, suggestions and recommendations for change in order to make it a more successful program.

Q What were some of the major issues arising in y our analysis as it related to the communities?

A I think one of the principal outcomes of that study I believe was different than originally anticipated was that whereas individual evelopers or builders were thought by HUD to require certain types of assistance in order to enable them to rehabilitate buildings, we concluded as a result of our work that this was knowledge which they had and that more important was the need for them to

understand the dynamics of the communities, that they had to link up with community organizations, that there had to be a joint relationship between the City, the community organizations and the developers, that very special attention had to be paid as to how you selected a neighborhood so that it was a dynamic one and not one that merely, if you went in and tried to do some rehabilitation, would soon go back to the condition it had been in because there was not that dynamic, that greater attention had to be paid to the whole question of relocation of people because the difficulties of relocating personnel who were in these given buildings represented for the program a delaying situation, and a very difficult one for them to handle and particularly because these developers and builders had relatively little experience in that kind of a problem.

They were basically accustomed to renovating buildings but not to dealing with the number of social problems that surrounded that.

THE COURT: May I ask this.

How long have you engaged in this kind of activity, the different phases you have mentioned? How long has that been your almost daily pursuit?

THE WITNESS: I would say, if we talk about housing, urban development, and environment, I have been engaged in that since 1957.

THE COURT: What was your preparation for that?

THE WITNESS: It has been a gradual evolution, sir, within the organization. I was originally trained as a chemical engineer. I moved from that into the area of e conomic development, some overseas works, and upon return to the United States in 1956, began to undertake economic development and urban development work for the company, and under our case system, as I gained more experience, I was assigned more and more of these projects to deal with.

THE COURT: Thank you.

Q You have been so involved in a large number of cities with these community issues?

A Yes, sir.

Q What envi mental cases have you been involved in?

A Currently I am serving as an advisor to the Kennedy Library Corporation whose plans for a library is

to the subject of an environment impact statement, but we are serving as advisors to the corporation.

Q This is the John F. Kennedy Presidential Library Corporation?

A That is correct.

I have been involved with an environmental impact statement concerning a bridge in New York City.

I had management responsibility for a major environmental statement in connection with the St. Louis Metropolitan Authority's new proposed airport.

I had responsibility for the initial stages of an environment impact statement being prepared for the Pondale Airport of the Los Angeles County.

The Public Affairs group with whom I am associated with the company has a continuing relationship with Massachusetts Health & Education Facilities Authority in terms of the need for various of their projects for en iron-mental impact assessments.

Q With respect to the John F. Kennedy Library, what are you doing for the corporation?

THE COURT: What is your overall objective?

THE WITNESS: For the Kennedy Library we are primarily at the moment serving for them as advisors to the kinds of issues which may arise as the statement is being

prepared.

Another organization has that responsibility on behalf of the General Services Administration of the Federal Government and will be called upon to prepare that statement for the Federal Government.

THE COURT: What you are going to do is what?

THE WITNESS: We basically will be advising the corporation on issues that they should be prepared to have information available on when requested by GSA.

THE COURT: What will those issues relate to?

THE WITNESS: The issues will relate primarily to the effect which the establishment of that library will have on Harvard Square in Cambridge.

THE COURT: That is the answer, exactly.

How much of an area will it affect and how much area will be considered in order to come up with a conclusion? How many miles or what?

THE WITNESS: That I think is still subject to some debate.

The site on which the library is to be built is a 12-acre plot in Harvard Square. The nature of Harvard Square as a big center in the Boston area means that its impact may be broader than that.

Q What kind of issues are you addressing in your

work for the library corporation?

A Primarily at the moment it would be safe to say the issues that we are addressing are considerations as to some of the history and background of the selection of this site, the kind of program and operations that will take place there, what the alternatives are that they should be considering. That is our primary purpose.

In the course of our meetings, then, we are suggesting, as we review materials, whether they should be attempting to develop additional information in case questions arise, since this does happen to be a controversial project in the Boston area.

Q Have any of the cases you have been involved in involved environmental analysis of housing issues?

A Yes. They have involved issues related to housing.

Q IN what capacity have you been involved with these environmental cases?

A I have been involved both in having direct charge for the cases and having management responsibility for those who have the day-to-day charge for the projects or cases themselves.

Q Mr. Foden, from your experience in 14 cities in your rehabilitation work and at least ten in your Model Cities work, technical assistance, and in the many other

cities you have been involved in, what are some of the environmental and social issues which you have discussed?

A Well, we have looked at such questions as to the effects which developments may have on the people who already live in the area. Will there, for example, be congestion from a major development? Will one create a considerable amount of additional traffic?

Will there be a change in the character of the area in terms of the types of individuals who may inhabit that area or may now come and have different status and backgrounds?

We have been concerned about attitudes of individuals in a given area toward change, that is toward renewal.

We have been concerned and have studied attitudes of individuals toward the types and quality of housing which is provided for them.

We have been concerned, related to that, as to whether there are indications as a result of an influx of personnel, there is apt to be not only increased congestion but possibly increased vandalism, and increased crime that might go along with this influx of people.

Q With regards to your phrase "the character of the neighborhood," what are the elements of the character of a neighborhood?

A It is difficult to define. It varies very much from city to city and neighborhood to neighborhood. It is a personal thing. It will vary in terms of the quality of people living in that area. Some of the characteristics would be whether in fact they are friendly and feel comfortable with those who live around them.

In some work we did in San Francisco, among the things that they considered, the people who were interviewed considered, as part of the neighborhood was friendship with their neighbors, local shopping areas where they felt at home. I think that in my own experience the definition of a neighborhood would vary very much depending upon the individual or family that you talk to as to how wide they consider the neighborhood to be.

Q Do you find different categories of people having different views of the neighborhood?

A Yes.

Q Could you elaborate on that a bit?

A I think that the character of the neighborhood and the attitude of a person in the neighborhood is very much affected by his attitude towards his own mobility, is he going to look forward over the years to getting additional income, being more mobile and maybe moving on elsewhere?

There are indications that people whose income outlook at least is limited tend to feel that that is their neighborhood and apt to remain their neighborhood and home for the rest of their life.

The associations which they form are particularly important, of course, if the individual is part of an ethnic group where he feels very comfortable and at home with others of his own ethnic background.

Q What factors contribute to the formation of attitudes of people in a neighborhood?

A Well, I think this, once again, will vary from neighborhood to neighborhood. Obviously neighborhood leaders have a great deal of influence in a given neighborhood. They tend to be the ones to whom the individual will turn if he has a problem or wants to try to accomplish something within the neighborhood. The neighborhood leader tends to keep more abreast in almost any neighborhood as to what is happening in his neighborhood, what he considers are in his neighborhood.

I think that individuals are often fluid with respect to what goes on in the neighborhood by their local newspaper or what they read in the papers as to factors that are taking place and the way it may affect them as they interpret it.

Q Would these factors that they receive indirectly affect both their attitudes and their fears and prejudices about a neighborhood?

A Yes, I believe it could.

Q Fear, for example, might that be based partially on fact and partially on perception of what facts are?

A Yes.

I think, as a matter of fact, much as we don't like to see it happen or to admit that it happens there are fears that are built up in individuals which may be completely irrelevant to facts. They may adduce that a certain situation is going to occur if a certain type of development occurs. You might be able to point out many facts that elsewhere it has not happened. In my own experience that does not necessarily persuade them this is not going to happen here. This is a subjective type of feeling which facts are not going to change very easily.

Q Do their attitudes, which you have testified to may not be biased in fact, contribute strongly to the stability of a neighborhood?

A Yes. I think they do. I hink if a person feels secure, feels that that neighborhood is his home, then I think you get a stability. If he feels threatened, he feels that his neighborhood is about to change and

change in a way he canot control or influence, I think he feels pretty uneasy.

Q When you analyze such issues as characterics of a neighborhood as attitudes and vandalism and crime, what are some of the techniques you use?

A Well, there are a number.

Y ou can use statistical information. One of the difficulties with statistical information is that quite often it is not either directly related to the neighborhood as one would characterize it or it would be out of date quite often, so that the statistical investigations you might make have recognized limitations.

A second technique would be to carry out the actual on-site or in-field surveys. These surveys might change from a very carefully structured questionnaire so presented as to try to avoid bias on the questions or it might be a survey which attempts to elicit responses and is very non-directive in an attempt to get some sense of the way in which people feel so that you find out sort of what their attitudes are rather than to be predisposed as to what the questions are that should be asked.

Q Do you hold informal discussions with community groups?

A Yes. I might mention that we did do a survey

in SanFrancisco, for example, where our concern was the attitude of the residents toward renewal. Our concern there was not, for example, to even mention the word "renewal" because we wanted to see whether it ever appeared in the consciousness of the individual.

We talked there not only with individuals but we talked with the neighborhood leaders who had been identified as being the leaders in that area, and we talked with representatives of key organizations that operated in the area providing various services.

Q When you talk to community leaders, do you look for issues that are recurrent in the minds of people in the community?

A I think -- based on the work I have done over the years -- quite often if you are carrying out a survey of this type you find fairly quickly that certain issues emerge after you have talked to a number of people. You find yourselves having completed the circle, seeing the same thing arise again and again and usually can reach a point of some assurance that you have zerod in on the major issues that have arisen or are at issue in that area.

Q Do you feel a special obligation once the issues are elucidated to study those issues?

A I feel we would not be doing our professional

work and it would be vulnerable professionally if we didn't, if we had not identified them. Particularly in the part of Arthur D. Little, with whom I am associated since most of our work is in the public area, it usually ends up in the form of a public report. We feel an obligation to be certain that if that issue has arisen we have addressed it one way or the other so we cannot be criticized for not having dealt with it.

Q You have talked about neighborhood stability and dynamics of a neighborhood. Are you familiar with the phrase "tipping point"?

A Yes.

Q Could you explain to the Court generally what you believe to be meant by that phrase?

A Tipping point, as I would understand it to have been used, with respect to a neighborhood, is that point at which the people who live in an area feel that the neighborhood has now changed its character to a point that they no longer wish to remain in that area and they will either move out if they rent, or sell their home if they own one, and try to find some other place to live whose characteristics are more suited to them.

Q Is the "characteristics" as you are using it, with regard to tipping point an exact characterization or

is it subject to the vagaries of the attitudes of people in the community?

A It would say it is a very subjective type of attitude. It would probably vary from neighborhood to neighborhood and city to city, that individuals will use a whole variety of factors in their own evaluation as to whether they think that neighborhood has changed so it no longer is suited for them.

Q You mention about varieties of factors. Give me an example.

A I think that they would be concerned in a given neighborhood as to whether the school to which their child goes is still the quality of school it was when they came there; whether the type of children he is going to school with are the type of children they want their child to associate with.

I think they would be concerned as to whether the local shops on which they have relied are still the same kind of shops or has their choice of goods and shopping, goods and so forth, changed?

I think they would be very concerned obviously if the area was becoming one marked by vandalism or petty theft or bodily injury on the streets.

I think they would be generally concerned by

cleanliness levels within the neighborhood. They would be concerned I think if there was a lot more congestion in parking on the streets than they had there when they moved there.

They would be very concerned if the properties around them were beginning to look rundown and not well taken care of, which they may see as a sign that the value of their property is to be affected.

It is a weighing of all of these kinds of factors that leads an individual or a family to say "This neighborhood is no longer one that I want to live in. I think I am going to move on."

Q Might racial factors be in that formula?

A I think they certainly are apt to be and in many cases are.

Q Might economic or class factors be in that formula?

A They certainly would.

Q Mr. Foden, I show you a copy of Defendants' Exhibit E and Defendants' Exhibit B. Look at these for a moment.

(Pause.)

THE COURT: The witness has not examined that?

THE WITNESS: I want to be certain, Judge, they are the same.

THE WITNESS: As long as he has, you take your time.

(Pause.)

Q You have seen copies of these?

A Yes, I have.

Q Are you reasonably familiar with them, sir?

A Yes. I have had an opportunity to read both of them.

Q Can you tell the Court what Defendants' Exhibit E is?

A Yes. Exhibit E as presented here has a cover sheet which refers to an environment clearance work sheet that has been prepared by the Housing & Urban Development Authority which constitutes a review of material presented by the New York Housing Authority that the environmental clearance statement by HUD indicates that has their contention, although there has been contoversy over this particular project, although this was not particularly covered adequately in the application, and although this is motivated by social impacts, HUD did not consider such impacts to be environmental aspects within the context of Section 101B.

Q That is the first page?

A Yes. The second page is the actual environmental work sheet with comments provided by HUD along with the

special draft environmental clearance work sheets, and appended to that is material that was presented by the New York Housing Authority providing description of the project and material which was provided apparently to meet the requirements of this environmental clearance work sheet.

Q What is Defendants' Exhibit B?

A According to the cover sheet of B, Exhibit B, this contains a series of exhibits, letters, FHA forms, which were used as the cover sheet indicates, to evaluate the project selection criteria for the particular project NY5192.

Q They both refer to a project at Site 30 in the West Side Urban Renewal area?

A Yes. Site 30, West Side Urban Renewal area, City of New York.

Q Do either of those documents make reference to alternative sites for low income housing of 160 units, approximately 160 units?

A My reading, I don't feel they do. They talk about alternatives but they talk, as I read the documents, about alternatives to the West Side Renewal area rather than alternatives for this project as to where else it might be located.

THE COURT: You mean where else it might be

located within the area?

A Yes. As to whether it might be located other than on Site 30.

Q Those alternatives are not so considered?

A That is my opinion.

Q Are you familiar with the term "urban blight"?

A Yes.

Q Could you tell the Court briefly what that means?

A Urban blight, as I understand it to be, is a condition, that due to a change in the social and economic conditions in an area are causing an area to change and to deteriorate. Blight, in effect, is a condition that exists because of this change.

Q Does Defendants' Exhibit E make a reference to urban blight specifically or by similar characteristics?

A I think it would be by inference -- I don't recall seeing the specific term "urban blight" although I think there are some references to factors that would constitute blight. But the term "urban blight," as such, I do not recall seeing.

Q Do you recall what the factors that they consider related to urban blight might be?

A They do talk about changes that had been taking place in the area in the past, they talk, for example, about some of the old brownstone houses that have moved from their original condition, single family housing, down ultimately to one room -- multiple use, one room conditions, which were changing the way in which the space was being used and therefore had a deteriorating effect on the neighborhood.

Q Does that document refer to neighborhood stability?

A I do not feel that it did. I don't recall seeing it here.

Q Are there issues about stability addressed in there?

A Once again, I think by inference they are addressed. I think that the document does indicate an attempt to, by the renewal that will take place, achieve stability, but the term itself is not directly addressed in the document as I have reviewed it.

Q In your professional experience preparing documents, do you believe the analysis of neighborhood stability in that document is adequate?

A I do not think so.

Q Do you believe the analysis of urban blight in that document is adequate?

A No, I do not think so.

MR. LAND: Which document are you referring to?

THE WITNESS: Exhibit E, sir.

Q With regard to Defendants' Exhibit B, the other document in front of you, are the issues of urban blight adequately described therein?

A I do not feel they are.

THE COURT: Then the answer is no?

THE WITNESS: Yes.

THE COURT: Next question.

Q With regard to neighborhood stability, are the issues of neighborhood stability adequately described in Defendants' Exhibit B?

THE COURT: In your professional opinion?

A No, sir.

THE COURT: Next question.

Q Is there reference in either Defendants' Exhibit B or Defendants' Exhibit E to fear an attitude of community residents?

A No, sir.

Q Mr. Foden, in your experience, do you believe in the broad group of categories called environmental issues, there are social issues that are environmental issues?

A I believe they are.

Q Could you give me an example of some of the social issues which you might categorize as environmental?

A I think there are both direct and indirect. I think the whole question of congestion, for example, the whole question of overcrowding, could conceivably be an issue of environmental concern. I believe that the human environment is part of the environment as well as the natural environment, and therefore factors affect the quality of life and the quality of the individual's life impact on the human environment indirectly.

A second effect, if you will, is that if you undertake a project of such a time that you have an effect on the services which can be provided to a given area because you have overburdened them in one way or another, you can effect the social environment, once again the quality of life. If you -- take an extreme example -- whether to place in a given area a project which overloaded, let's say, the school systems to the point that the child or the children of those already

there were in much more crowded classrooms then indirectly you have affected the quality of life for the individuals who live in that area.

Some of the factors are less tangible than others. The items that specifically -- they are usually called upon to be addressed in addition to physical factors such as noise and air are crime, traffic congestion and the effect on the general quality of life in that area.

Q Do the documents you see in front of you fully address those issues?

A I do not think so.

Q You testified as to the importance of controversy in a community. Do the documents in front of you evidence the existence of controversy in the West Side Urban Renewal area?

A I recall reading them. The controversy was in fact pointed out as part of the MUD review rather than in the application itself.

Q The application --

A The application of the New York City Housing Authority.

THE COURT: You are referring to Exhibit what, sir?

THE WITNESS: Exhibit E, your Honor.

On the special environment clearance work sheet, there is a statement that "The applicant's statement that there are no known groups in opposition to this development is unfortunate and erroneous."

So that it was the Housing and Urban Development Department that pointed to the controversy rather than the document itself.

Q Is there any description in the analysis that you just read or following it as to what the controversy is?

A Well, I gather that the controversy revolved around the change from the original destination of this site for middle income housing, the change of that to low income housing, and that this was of great concern to people in the area who had made an investment on the assumption that that site was to be used for middle income housing and not for low income housing.

Q Are the substantive issues that were in controversy described in the HUD document that's part of Defendants' Exhibit E?

A No, they are not.

Q Mr. Foden, a hypothetical question. On the basis of your experience, would you please assume for the

moment that there is an Urban Renewal plan for the conservation, rehabilitation and rebuilding of the then deteriorating West Side Urban Renewal area located between 87th and 89th Streets in New York and between Central Park West and Columbus Avenue, all in the borough of Manhattan.

Assume that that Urban Renewal plan was approved by the local governing body, Board of Estimate, in June of 1972.

Assume the plan is put into execution shortly thereafter. It calls for the conservation of the good buildings in the area, the rehabilitation and salvagable buildings in the area, and the demolition of deteriorating buildings, followed by the construction of 7,000 to 8,000 new middle income units.

And assume further that the residents of the area and the Board of Estimate and the public at large were told repeatedly by public officials that there would be approximately 2500 units ot low income housing built as part of the West Side Urban Renewal area.

Assume further that a large number of individuals and organizations moved into the area or decided to remain in the area based on their belief and their observation that the Urban Renewal plan's objectives and goals

were beginning to be realized.

Assume further that in 1970 and 1971 a number of events took place which caused changes in the Urban Renewal plan to be effected and which caused introduction and acceptance by government officials into the area of a significant number of tenancies which were not in accordance with the Urban Renewal plan, specifically, including squatters in the occupancies of buildings slated for demolition to make way for the construction of designated middle income units.

Assume further that the issues of neighborhood stability, integration, urban blight, fear, community militancy and a range of other social and environment issues were in controversy in the neighborhood and were known to the officials of the City of New York and the Department of Housing and Urban Development.

Do you believe an environmental impact statement should have been prepared in connection with the consideration of an application made by the New York City Housing Authority to the Department of Housing and Urban Development in connection with the funding of low income public housing on the sites previously designated and represented as a site for middle income housing?

MR. LAMB: Objection, your Honor.

THE COURT: Objection sustained.

Ask him if he has an opinion on that first.

Q Do you have an opinion?

A Yes, I do.

Q What is that opinion?

MR. LAND: Objection, your Honor.

THE COURT: Yes. Will you state your reasons for your objection?

MR. LAND: The witness is about to give an opinion as to something which is a matter of law rather than what is a matter outside the law.

THE COURT: What do you say to that, Mr. Baker?

MR. BAKER: Your Honor, it is Mr. Foden's experience to be called in for the preparation of environmental impact statements in controvertial, complex urban issues and situations. I believe on the basis of his involvement with several of these kinds of issues he is competent to make such a judgment.

MR. LAND: Your Honor, this is somewhat like an analogy to a negligence case in which an individual who is either a great lawyer or a great judge is testifying as to whether certain events constitute negligence, which is the ultimate question in a negligence case. Here

is a man who holds himself out as an expert in certain fields of housing asked to give an opinion as to the ultimate issue in this case. We say experts are not qualified under law to give testimony on what is the utlimate issue in the case to be decided.

THE COURT: The witness has not been asked for an interpretation of the law. I didn't so construe it. I am inclined to overrule the objection.

Let me give it more thought and I will announce the ruling after luncheon at 2:15 when we resume.

Gentlemen, will you please make a note that we sit today, as I have already indicated, to about 5:00 or 5:30. There was an issue, you remember, as to the evening session. I have already gone over that and I must say I am sorry, Mr. Morris, that I cannot move it from tomorrow to Wednesday. So the evening session tomorrow will be from 7:30 to 9:30, following a day of testimony commencing at 9:00 and ending around 5:00 or 5:30. The rest of the calendar, by the way, already announced by the Court holds. That will be it.

Mr. Clerk, announce a recess until 2:15.

THE CLERK: Recess to 2:15 p.m.

(Luncheon recess)

2:15 P.M.

THE COURT: Mr. Land, a further concentration on the matter supports the reaction I reflected. Accordingly the objection is overruled.

We will take your answer. What is it?

THE WITNESS: I am afraid I am going to have to have the question reread.

(Off the record discussion.)

THE COURT: Try to reconstruct it.

Q Mr. Foden, repeating the hypothetical question.

Assume there is an urban renewal plan for the conversation, rehabilitation, and rebuilding of the then deteriorating West Side Urban Renewal area located between 87th Street and 97th Street, Central Park West and Columbus Avenue in the Borough of Manhattan, approved by the local governing body, the Board of Estimate, from June of 1962;

Assume the plan is put into execution shortly thereafter and calls for the conservation of the good buildings in the area, the rehabilitation of salvageable buildings, and the demolition of deteriorated buildings followed by the construction of between 7000 and 8000 new middle income units;

Further assume that the residents of the area

and the Board of Estimate and the public at large were told repeatedly by public officials that there would be 2500 units of low income housing in the West Side Urban Renewal area;

Assume that a large number of individuals and organizations movedinto the area or decided to remain in the area because of their belief and their observation that the urban renewal plan's objectives and goals were beginning to be realized;

Assume in 1970 and 1971 a number of events took place which caused changes in the urban renewal plan to be effective and which caused the introduction and acceptance by Government officials into the area of significant number of tenancies which were not in accordance with the urban renewal plan, specifically including squatters in the occupancy of buildings slated for demolition to make way for construction of designated middle income units; further assume that issues of neighborhood stability, integration, urban blight, urban decay, fear, community militancy and a range of other social and environmental issues which were in controversy in the neighborhood and were well-known to the office of the City of New York and the Department of Housing and Urban Development, do you believe an environmental impact statement should have

been prepared in connection with the consideration of an application made by the City of New York Housing Authority to the Department of Housing and Urban Development in connection with the funding of low income public housing on a site previously designated and represented as a site for middle income housing?

A Yes, I do believe so.

Q If you were corganizing an effort to conduct an environmental study in a complex urban renewal area, what is the range of environmental issues which might need to be considered and you would consider in setting up your case study team?

A I would consider a number of technical issues such as air pollution, noise pollution, water pollution, whether the utilities, gas, electricity and the like, were adequate in the area, consider the traffic that would be created by that particular facility, the congestion that might occur, I would consider whether in an urban environment one were to expect there would be a change in the character of the neighborhood, whether one might expact, because of that change, to get an increase in crime, whether there would be interference, or potential conflict, between those already in the area and what the potential project would bring to the area, I would consider its esthetics, whether it was

consistent with the general tone of the area, the type of design that was used for the project as a whole, in order to address these issues and to consider whether, in fact, one could at best provide an estimate, which is all one could do, in advance as to the effects.

I would assemble a group of people who had a variety of disciplines. I would have people who were able to measure or estimate the effect on the air pollution levels.

I would get people who understood and could measure noise levels. I would get people who knew something about the economics and social characteristics of the particular neighborhood.

I would hopefully have on my team someone with an architectural background who could comment and analyze and review the potential planning for that particular poject to see that they are consistent.

Depending on the magnitude of the project, I would try to have estimates made of the amount of traffic one might foresee in comparison with the present levels, and I would also look to see if the various regulations of that jurisdiction were the project is being constructed had been met, and this would require somebody familiar with zoning and building codes and so forth.

Q Would you also consider psychological issues such as fear and community attitudes?

A I think if the issue or the project were one that definitely had an air of controversy about it, or potentially did, I would do the best I could through surveys, discussions, and the like, to get some sense of the potential reaction of the residents of that area to the project coming in.

Q You have set up such times before?

A Yes.

Q Are there commonly accepted methods of analysis for those issues that you have just suggested you would consider?

A Yes. There generally are. Obviously in the more technical areas there are prescribed standards that are adhered to by engineers and scientists who have to make measurements and quantify things.

There are certainly technicians that are used for survey purposes which are recognized by those who make surveys, for example, to be acceptable methods in terms of their statistical validity, the bias or lack of bias of the questions that are asked, and really, in many of these areas there are states of art one might expect of a professional from putting in estimates.

In your review of Defendants' Exhibits E and

B is there evidence that each of the issues you have cited was considered independently and analyzed independently?

A It varies. It is clear that on some of the issues, for example, on zoning,this was specifically addressed -- there were borings, boring information, that would address the question as to whether that site was adequate, there was generally information provided about atmospheric conditions, although I was not able in the time that I reviewed these to see how they tied that to the specific project.

The services in the area were sort of very generally addressed. I was unable to get a sense from a review of the documents as to the impact which the project would have on any of the specific service facilities that were cited. I would say that some of the issues were addressed in quite good detail. Others were sort of bald statements or superficial statements. If work was done it was not at least presented here and I have not seen it.

End 1 PM

Q Is there evidence of analysis of the effect of the proposed action on the neighborhood residents' attitude and fears and concerns for the stability of their own neighborhood?

A No, there is not.

Q Mr. Foden, might the cumulative effects of a large number of decisions be significant environmentally while the effects of an individual small specific decision may not be environmentally significant?

A Yes, I think so.

Q Could you elaborate on the cumulative effect of decisions?

A I think, for example, that one might find that a given environmental effect, one specific effect, for example, let us assume that the air polution, to take an example that's easier to measure than others, an individual action of the project might not in any way be sufficiently serious to cause a concern in the area. You add one more project, for example, it might be sufficiently great that the two combined could in effect override that level and have a serious effect.

You might, on the other hand, to take one of the more socio-economic aspects, if you are considering, for example, whether the community facility services

are adequate, it might be quite adequate to handle a given level of service but one more project might mean you have to add additional people, for example, to your force in order to handle it or an additional level of services to your capacity in order to handle it.

Q Is there any evidence that the cumulative effect of the decision to reconvert Site 30 from middle income housing to low income housing was considered in the context of other decisions in the neighborhood?

A I do not see that, no.

Q In either Defendants' Exhibit B or Defendants' Exhibit E?

A No, sir.

MR. BAKER: Thank you very much, Mr. Foden. I have no further questions.

THE COURT: Cross examine.

CROSS-EXAMINATION

BY MR. LAND:

MR. LAND: Your Honor, in view of the fact there is no lectern, may I use my own desk?

THE COURT: Surely. If you want the lectern we can get one for you. Would you like to have it?

MR. LAND: I think I will manage all right.

If my voice drops because I am looking down, let me know.

THE COURT: Mr. Land's request is a good one. We would all benefit if he keeps his voice up. He has a soft voice. That is complimentary.

You might begin until we get the equipment. We might have to get congressional approval.

(Laughter)

CROSS-EXAMINATION

BY MR. LAND:

Q Mr. Foden, is it your testimony your firm on several occasions has done work with the Department of Housing and Urban Development in connection with statements made pursuant to the National Environmental Policy Act?

A No, sir.

Q You have never assisted HUD in any of the statements pursuant to the National Environmental Policy Act?

A Not to the best of my knowledge.

Q Do you know under what conditions the Department of Housing and Urban Development is required to make an environment statement pursuant to that National Environmental Policy Act?

A There are regulations set out by the Housing and Urban Development Department applicable to that. I am not in a position to quote them to you, but I know that there are regulations and that they have been published in the Federal Register.

Q And you are of the opinion here that since the Department of Housing and Urban Development did not issue a full-blown statement pursuant to the National Environmental Policy Act of necessity one of its regulations was violated, is that correct?

A I believe that to be beyond my ability to answer the question.

Q Did you not testify, sir, you were of the opinion as an expert that the Department of Housing and Urban Development should have made a full-blown statement pursuant to the National Environmental Policy Act in connection with Site 30? Isn't that your testimony?

A I believe --

Q Excuse me. Isn't that your testimony, you are of the expert opinion the Department of Housing and Urban Development erred in failing to make a full-blown statement pursuant to the National Environmental Policy Act? Isn't that your testimony?

A If I have to answer that yes or no, I think

I will have to say no and depend on the record, sir, because I believe the term "full-blown" was not used in the question posed to me.

Q What do you think the Department of Housing and Urban Development failed to do that they should have done?

A I believe that the failure was one of asking for more significant information and more detailed information before issuing the opinion which they did issue in the environmental clearance statement.

Q More details information as to what, sir?

A As to a number of factors which in my professional opinion were not addressed in sufficient depth. There were specific statements, for example, made that the air polution system is adequate, that the school system in some places was adequate and some places was not. There was no attempt made to show in relation to the number of persons coming into this project how it related to the specific school system as being addressed.

These are at least examples of the questions, if I were going to make a decision, I would at least want answers to, and I felt at least in the information here it was inadequate.

Q Anything else other than that, the factors

you just gave, the factor of schools?

A Well, there were schools. I think that there were statements made there in terms of the various services provided. All I can go on is what is in there. For example, police and fire. I in no way in here, for example, reading this purely as information without background, am able to determine exactly how many people and how many children are coming into this area. I just have no sense, after going through the record, how many are really coming in here, and I think I would need that information in order to properly assess him of these community facilities and services.

Q In other words, from your reading of these two documents, Exhibits E and B, you say that, based upon your reading of that, you do not know how many people will come into the area by the development of Site 30 as a low income housing project.

A There is one estimate I recall that is made in there as to a total number of people in a total number of dwelling units which, as I recall, was attached to the HUD evaluation. There was no breakdown, as I recall, of the nature of that particular number of people.

Q What do you mean no breakdown?

A By breakdown I mean I don't know how many families, how many single head families, how many children will actually be housing in that area. For example, if I do not know how many children, I do not know what kind of load I am putting on the schools.

Q I refer you to page 2, Mr. Foden, and page 3 of Exhibit E. We will speak of the first item considered on Exhibit E, which is the negative impact statement by HUD dealing with the decency of the area.

A Yes,sir.

Q Does it not indicate that this particular project will have a maximum project population of 576?

A Yes, it does.

Q And do you find that figure somehow erroneous, wrong or subject to doubt?

A No, I do not.

Q What more do you want than a statement of 576 people?

A I would like to know how that 576 people are distributed.

Q I refer to you a chart directly above that figure of 576 which breaks down the number of units.

A Yes, sir.

Q Does it not indicate at least 16 of the units

will be for the elderly?

A Yes.

Q Does it not indicate 56 units will be of one bedroom?

A Yes, sir.

Q And can we not assume that there are some regulations dealing with number of people who can occupy a one-bedroom apartment?

A Yes, sir.

Q Would you say it would be fair, then, to assume, based on those regulations, we could project the number of people who would live in a one-bedroom apartment?

A I could predict the maximum, sir.

Q And you could do that with each of the types of units being developed?

A Yes, sir.

Q The two-bedroom, three-bedroom and four-bedroom?

A Yes,sir.

Q What further do you want aside from that?

A Among other things, I would want to know whether those are going to be families which, for example, just have a single head or whether they have a man and wife. I would like to know also, in terms of the distribution

of the number of people in there, as to whether they will be adults or children.

Q You want to know how many children. Does page 3 of this statment not say the maximum number of children for the project will be 356?

A Yes, sir.

Q Do you have a quarrel with that number?

A No, sir.

Q Is there any doubt as to the correctness of that number?

A No reason.

Q You say you were concerned because there is no statement in here as to the number of family units which will have only one parent, is that your concept?

A Yes.

Q Would it not be fair to take a statistical profile of the city as a whole and make the assumption that as to the low income people for the city as a whole the approximate same proportion of the city will be housed in housing projects?

A I don't know that it would be fair for the city as a whole.

Q Or Manhattan as a whole might certainly be more representative.

Q But you find gross error in the failure of the Department of Housing and Urban Development to make a specific study as to how many single heads of household will be residing in the project?

A Yes.

Q Gross error. Why is that a gross error, Mr. Foden?

A Because I think it does not give you an appropriate characterization of the nature of the residents of this potential project.

Q What difference would it make? If there were 160 units of which 16 are elderly and assume of the balance of 144 units 40 had single parent as heads of the household as opposed to 50 parents as heads of household, would that be significant, a 10 difference?

A That probably would not.

Q How many would you have to have to make it significan?t

A I do not know.

Q Mr. Foden, you said you found fault with the analysis of the school system in here, is that correct?

A Yes, sir.

Q Could you be a little more specific where you find fault?

A I think that the main fault that I find, for example, is that once again although the application indicates a maximum, I believe, of 356 children, I do not know whether these are going to be children under school age, children in elementary school, children in junior high or children in high school. I think that makes some difference because there are differences cited in the statement itself in terms of the adequacy of elementary, junior high and hign.

It was interesting to me at least in reading through it that they site the existence in the area, for example, of private schools which I think, if you are talking about a low income area, does not seem to me to be particularly relevant since those schools are not going to be able to meet the needs of a low income group, in all probability.

I largely feel that I was unable, at least in my reading of this document,to be able to satisfy myself that the projected profile of population coming into this proposed project would or would not place any added burden on the school system in the area.

Q Does not the evaluation of the school system indicate that there are vacancies and available space for 640 additional school children in the public schools

in this area?

A [illegible]. I think one needs to know more carefully--

Q Does it not state that, Mr. Foder.?

A Yes.

Q Do you have any reason to doubt the accuracies of that figure?

A No, sir.

Q Does the study of the schools not indicate that additional schools are in the process of being constructed and completed, especially a senior high school?

A Yes.

Q Is there any doubt as to the accuracies of that statement?

A There was some discrepancy that HUD found in that statement.

Q What are you pointing to?

A I believe, as I recall reading in the comment prepared by HUD, that there was some question as to whether the school cited would in fact be available at the time that the project was under consideration.

Q Let me rivet your attention on that.

The material submitted by the Housing Authority indicates, and I quote from a sentence of that

which is now marked as Exhibit E-1, where that was the material signed by Mr. Walter Fried, and it says:

"Two high schools now under design will be built on adjacent blocks within the district."

However, the HUD study says this:

"Applicant's statements about completion of Park West and Martin Luther King Junion High Schools are inaccurate."

I believe that is what you are referring to, is that right?

A Yes.

Q It goes on to say on page 3 of this study:

"However, King High School is expected to be open in late '73 before completion of the proposed housing project and should easily accommodate students generated by the project either at King or at Brandeis High School whose current overload it would help to absorb. Park West High School was not in construction and cannot be considered available until 1975 at the earliest."

Is that correct, what it states there?

A Yes.

Q Do you have any reason to doubt the correctness of the HUD statement?

A No, sir.

Q In fact, don't we find here a situation in which the Department of Housing and Urban Development independently verified certain statements made to it by the City, found part of it to be inaccurate and then gave a detailed analysis of what it found to be so?

A Yes, sir.

Q Is that itself not significant in terms of depth in which HUD independently considered what the City gave to it in terms of the facts?

A Yes.

Q What else is inadequate? You mentioned the school system study was inadequate by the Department of Housing and Urban Development. What else is inadequate in the study?

A I believe that, for example, there is no comment made upon the effect or the interaction, really, between this project and other projects, other individual projects, within the area itself, that is, as to whether the character of the population of this area will change due to this change in type of project.

Secondly, I believe that --

Q Wait a minute, wait a minute. You say there is nothing here --

THE COURT: I think you ought to allow him to finish. You can then attack his answer.

Go on and finish.

A Secondly, I think that the question about the alternatives available or alternative -- under alternatives as to alternatives of the site, I felt that the answer did not specifically address that. It referred it more to the project then to the alternatives for the specific site.

Those are two, sir, in which I feel they are not adequate.

end t

Q You are not sure the statement does not tell you what the interaction of this project will be on the entire area?

A Yes.

Q First we would know the number of people in the area.

A Yes.

Q We know there are to be additional people of low income.

A Yes.

Q One thing we want to consider is whether this additional people would change the density population of the area?

A Yes.

Q Does this statement show whether the density of population will be significantly altered?

A It shows it will not be.

Q Isn't that a favorable finding then?

A Yes.

Q I don't understand your problem with the population increase if we have a statement here we are going to have 500 additional people, that added to the other known population of that area will not significantly increase the density of the population. What other problem do

you have?

A I think if I were a home owner in this area I would want to know what the character and nature of the population is going to be other than numbers.

Q You know there is going to be low income?

A Yes.

Q What else do you want to know?

A I would like to know what the attitude of the neighborhood is around it as to whether those people are going to be welcomed into the area. Are you going to have a series of concerns generated which is going to make it difficult for the City as a result of this type of development?

Q Do you know what the community consists of?

A Very generally.

Q You do?

A Very generally.

Q How big is the community?

A In terms of population?

Q What is the relevant community?

A The relevant community, I think, and I have not talked to the people in the area, will depend on what their view of the neighborhood and area is. I don't know.

Q You have no idea what the relevant community is?

A No, sir, I do not.

Q You also testified that there is nothing in these studies indicating alternatives to the proposed site?

A With respect to this project, yes, sir.

Q I direct your attention to the materials submitted by the Housing Authority, Item J of that material.

THE COURT: What exhibit?

MR. LAND: E-1 of Exhibit E.

A I have Exhibit E --

MR. LAND: It is part of E.

Q Refer a quarter of the way down.

A I have it.

Q I would like to read you the first sentence of J:

"The Authority feels that there are no alternatives to the proposed West Side Urban Renewal area."

Is that not a statement as to available alternatives?

A I do not believe so.

Q It is not a statement?

A It is a statement, but not with respect to available alternatives. I do not know --

THE COURT: There is your answer.

Next question.

Q In addition to the school system the date as to the population of the proposed project, and the alternatives for the proposed development, alternative sites, rather, what other factors has HUD failed to deal with in this study?

A I feel that in terms of other factors which in my opinion should have been dealt with more directly, I would say that although there was information provided with respect to aerometric data that if I were reviewing this I would want to see more specifically how it related to this particular project rather than on a much broader base than as provided here.

Secondly, I would like to have seen other than very broad and general statistics as to crime and very general statistics as to those areas policing the general project area, some more specific estimates as to what the applicants felt would be reasonable to expect, so that I had some way to at least get a sense as to whether they appears to be realistic or not.

Q I don't understand the last part of your answer. Elaborate on that.

A The last part, sir, being with respect to -- how much of the last part?

Q The last sentence.

THE COURT: The applicants being realistic.

A If I were reviewing this project the provision to me of very broad statistics for example on crime for a rather large area would not be as much as I would like to receive in reviewing it to show --

THE COURT: You want greater detail?

THE WITNESS: Yes.

THE COURT: What about this last part of the sentence, what did you mean by that, the applicants being realistic?

THE WITNESS: I think I meant that I might assess that the estimates they were making were realistic in terms of what was being proposed; in other words did they anticipate a very modest increase and therefore the ability to handle it was there or was it a sizable increase in that particular area?

THE COURT: That they would not be able to cope with?

THE WITNESS: That's correct.

Q In part of your direct testimony you discussed matters dealing with fear of the people living there and their concern as to what the project would bring.

A Yes, sir.

Q And the Department of Housing and Urban

Development made a study of that?

A Yes.

Q Did you read the letter that was annexed to these studies submitted by the law firm of DeMov, Morris, Levin & Shein?

A Yes.

Q Did you read this particular sentence in that letter and I quote:

"Once again the area is generating a panic flight of whites."

Did you read that sentence?

A Give me a moment. I am not quite as familiar with that.

THE COURT: In which exhibit is it?

MR. LAND: B, halfway through, a single space letter.

A Is that called memorandum --

Q Yes. It is the next page, the first paragraph.

THE COURT: Read it to me.

A I have it.

THE COURT: Read it to me.

A I believe the one you mean is "Once again the area" --

MR. LAND: Yes.

A "-- is generating a penic flight of whites."

THE COURT: Is that the whole paragraph?

A "Once the proportion of non-whites exceeds the limits of a neighborood's tolerance for interracial living, the white population departs. This is the phenomenon known as 'tipping point.' The tipping point must be acknowledged and dealt with if racial integration is to be achieved."

Q As a result of this statement made by this law firm you are of the opinion that the Department of Housing and Urban Development should have made a study as to whether this particular statement was accurate or not as to the generating of a panic flight of whit es?

A The way the question is worded I would have to say no.

Q Where any place in this study do you see an indication that HUD was deficient in failing to make a full-scale analysis of the flight of whites from the area as a result of the construction of this low income housing project?

A I don't know that one necessarily would make a full scale study of the flight of whites from this area due to the housing project. I think however that a statement of that type, or the awareness of that kind of controversy, would suggest that the potential effect should be

investigated as part of the statement.

Q You testified I believe on direct examination that nei ther of these two studies accurately reflected the controversy, is that correct?

A I believe that's correct.

Q If one wanted to consider what was really in controversy, if HUD wanted to find out what was really in controveisy here and was being sued as to this project on the controversy, do you not think one of the best places for HUD to go to find out what is in controversy would be the plaintiffs challenges it makes in a legal complaint and in its memorandum?

A I think that certainly is a good place to go.

Q That is the place to start to find what is really in controversy, correct?

A I don't know whether that is the place to start, but if that complaint has already been made it is a place to deal with, yes.

Q I would like to read to you -- perhaps you failed to read it yourself -- Item 5 on Page 2 of Exhibit E.

A Yes, sir.

Q I read: "The applicant's statement" -- the applicant being the New York Housing Authority -- 'that there are no known groups in opposition to this development,

is unfortunately erroneous. There is considerable known opposition, and since the date of applicant's certification of the work sheet has included an examination of plaintiff's brief as well as the correspondence from another opponent to the development, the organization known as CONTINUE, Committee of Neighbors To Insure a Normal Environment, indicates that the opposition is based on alleged potential social impacts which are not defined, suggested by the opponents as environmental impact within the context of Section 101B of the National Environmental Policy Act."

Is this not a statement by HUD that they considered what the opponents to the project had to say?

A Yes, sir.

Q In fact, the study made by HUD, does it not, includes a statement of the issues raised by the lawyers?

A Yes, sir.

Q Did you find in these statements a critical study prepared by Mr. James Gaynor?

A Yes, sir.

Q Did you likewise not find in these studies various letters drafted by an organization known as CONTINUE in which they set out their concerns?

A Yes, sir.

Q Did you find in either the memorandum by the

law firm, the study by Mr. Gaynor, or the letters by the CONTINUE group, any fact or statement which in your judgment required further investigation by HUD?

A Yes. I think the issue of the effect that this project would have in the area in light of those should have been looked at more carefully.

Q Be specific about it. The efect it would have is broad. What did these various opponents say?

THE COURT: Or what did they fail to say?

Q What did they bring to the attention of HUD where HUD failed to examine?

THE COURT: What did HUD fail to do in your estimation? It recognized there was opposition. It went so far as to say to the City "You are dead wrong on this issue."

THE WITNESS: Yes, sir.

THE COURT: What do you say HUD failed to do along those lines?

THE WITNESS: I believe that what HUD failed to do was to go back to the City and say in light of this controversy which has been brought forth by the litigation that "I would like, as HUD, from you the City, the applicant, a clear definition that you have looked at and are able to demonstrate to us that this project will

not have the kind of effects that are there, and before I will give you the approval I want an answer to that question."

That is where I think HUD failed.

Q Assume that the law does not allow HUD to do that, would your answer change?

A Not being a lawyer, sir, I don't know how to answer that.

THE COURT: That sort of throws water on your own objection which we resolved after lunch.

I don't want his reaction to law questions.

Q In considering the effect on a neighborhood of a low income housing project, would not one of the key indicia of that effect be the number of sales of homesthat had taken place recently compared to sales over an earlier period?

A Rephrase that question.

(Question read.)

A That would be one indicator, yes.

Q That is one place you could go for relatively accurate statistics to see if there is any rapid acceleration in the sales of homes?

A That is one place that I would look for it, yes.

Q Let's assume the following facts:

Assume that the City announced its intention to

convert Site 30 from a middle income project to a low income project and that the intention received widespread publicity in this area in 1970. Assume that there are several real estate operators wor king within that area and that one of them who is fairly representative had the following sales, resales of brownstones as follows:

In 1968, three.

In 1969, one.

In 1970, one.

In 1971, one.

In 1972, zero.

1973, one.

Based upon that pattern, is there any indication that there is a panic flight of whites or that the intention to convert Site 30 to a low income housing project is causing undue concern on the part of the brownstone owners in the neighborhood?

A No.

Q As a matter of fact, such a random selection would indicate that such a flight of the whites is not in fact happening, is that correct?

A That's correct.

Q Have you ever heard of a man by the name of Thomas Schelling?

A No, sir.

Q YOu have testified, have you not, that you have done a considerable amount of work in urban development?

A Yes, sir.

Q Has it not been your experience that in every community in which you have dealt there are some people within that community who resist any change, who totally resist any change, and that if change occurs they will leave? Don't you find that of necessity in any community you have dealt with?

A Yes.

Q We will find that here in this community?

A Yes.

Q That is as sure a fact of life as the sun rises from the east,is it not?

A Yes, sir.

Q You realize that HUD has made two separate studies for Site 30, do you not?

A Yes. For two different purposes.

Q One being the negative impact statement pursutant to the National EnvironmentPolicy Act?

THE COURT: Which is exhibit --

Q E. The other is Exhibit B, being the evaluation of the project selection criteria?

A Yes, sir.

Q Do you know why HUD made two separate studies?

A I do not happen to know why, no.

Q Do you know why HUD made a project section criterion known as Defendants' Exhibit B?

A My understanding is in order to be certain that that particular project satisfied criteria for them to appropriately fund that project.

Q Assume that for every multiple family dwelling to be paid for by Federal moneys HUD is required to make a site selection criteria study similar to what is in Exhibit B. Assume that part of that study of necessity must consider the social consequences of an increase in minority concentration within the proposed area. Would it be your expert opinion that HUD of necessicty must duplicate that finding or its study in a study made pursuant to the National Environmental Policy Act? Do you understand my question?

A They must duplicate the study itself?

Q Yes.

MR. BAKER: Your Honor, that question calls for a legal conclusion.

THE COURT: It sure does, but there is a little mixture of the other.

Can you answer the question?

THE WITNESS: I am not sure I understand it. I will attempt to explain what I think he means.

If I understand you correctly, in having prepared a study to meet the requirements of the environmental law and then having another study that they have to make for the site selection criteria, should HUD be expected to undertake a complete duplication of that study or alternatively could they use the information from one to satisfy the needs of the other?

Q Yes, that's right.

A I think it is reasonable to assume that they wouldnot start de novo and do a complete duplicate study.

Q Assume that you find certain failings in HUD's National Environmental Policy Act study, being Exhibit E, but assume that the failings you find in E are adequately covered in the site selection criteria study known as Exhibit B, would not then the defects that you found in Exhibit E, the National Environmental Act policy study, be corrected?

A Not necessarily.

Q You testified on direct examination that a portion of the attitudinal factors that arise in a neighborhood may in certain instances be false fears as to what will happen in a neighborhood, is that not correct?

A Yes, sir.

Q Do I understand from your testimony that the Department of Housing and Urban Development should make a study of those false fears?

A No, sir, I do not believe that would be what is required.

THE COURT: Since you have already declared that false fears may produce an exodus for reasons you and I on more solemn ground would say were unworthy and unnecessary and totally without solid grounds, why do you answer no to that question?

THE WITNESS: Because I don't know how you study false fears.

THE COURT: Don't you determine that by talking to people?

THE WITNESS: I was trying to be responsive to his question, which was to study false fears.

I think you would attempt to determine the nature of these false fears and do the best job you could do to explain them recognizing in some people you cannot explain it.

THE COURT: You would undertake a study?

THE WITNESS: Yes.

Q Do you recall several moments ago I went through the housing sales of recent years with you?

A Yes.

Q Your conclusion was that that did not establish a pattern of a white exodus from the area, is that correct?

A Yes.

Q In fact it established just the opposite, that there was no exodus?

A That particular sample, yes, sir.

Q Based upon that sample would you find that the statement made by the lawyers in this case --

THE COURT: You don't have to give the firm name.

MR. LAND: I wanted to read about the white exo

THE COURT: We remember the sentence.

Q The statement made by the attorneys, something to the effect of a white exodus, would that in your judgment then be a false fear?

THE COURT: If it was based solely on that item

THE WITNESS: Would that be a false fear? Yes.

Q Suppose the opposition to Site 30 as a low income housing project claims that the construction of a low income housing project would cause a deterioration of th neighborhood, and assume that the opposition is made up of a small group of people who do not reflect the views of the entire community, as a matter of fact assume that the group

in opposition to Site 30 is a very insigificant portion of the entire community, do you feel that HUD, in your opinion, was justified in not giving great weight to the views of that group?

A No.

Q Then the corollary is that HUD should have given great weight to the views of that group?

A Yes.

Q What kind of weight should HUD have given?

A I think HUD should give as much weight to the opinion of any minotiry groupd regardless of who it may be. My understanding is that this is what HUD attempts to do through the country.

Q In other words, if there was an equally vocal but small minority group that held views in opposition to the group opposing Site 30, HUD should give equal weight to their views, is that correct?

A Yes, sir.

THE COURT: Hasn't the witness injected something that you might have difficulty in explaining?

Your own recitation as to HUD's criteria embraces the very element that you think is questionable. They say because of that, that's one of the factors that caused them to reverse the City, unless I don't quite get your reasoning, Mr. Land.

MR. LAND: That is what I am leading up to, your Honor.

THE COURT: I ask your forgiveness if I disrupted your course of action.

Q Mr. Foden, you see in these two studies made by HUD that it recognized considerable opposition to the proposed project, do you not?

A Yes.

Q And you see included in these documents considerable material furnished by a group that was opposed to the project?

A Yes.

Q Do you have any reason to believe that HUD did not give full and adequate consideration to those persons who were opposed to this proposed project?

A I had no reason to so believe, no.

THE COURT: Mr. Land, I don't want to disrupt your cross. It's been a pertinent cross-examination. You have scored in some respects, and in others, like everything else in life, there was no particular gain.

How much more time? I don't want to interrupt you. There are lawyers on another matter which will only take me a few minutes.

MR. LAND: We can take a break now, if you like.

THE COURT: Gentlemen, come into the roping room.

(Recess)

THE COURT: Please proceed, Mr. Land.

BY MR. LAND:

Q Mr. Foden, do you have any reason to doubt, based upon your analysis of the studies made by HUD, that HUD failed to take into consideration the conflicting views by various groups residing within the West Side Urban Renewal area as to whether or not the particular project should go ahead?

A No.

Q Have you ever seen any other site selection criteria study prepared by HUD for any other federal project?

A No, sir.

Q Do you know how long HUD studied the feasibility of this particular project?

A No, sir.

Q Do you find that by reason of HUD's independent evaluation of the controversy within the community and its own independent evaluation of the school system and the correction of mistakes made by the City, do you find that HUD in this particular study, based upon your knowledge of how the federal government operates, that HUD did a fair and adequate job in presenting what it had to present in connection with this study?

A I think it did a fair job, if by "fair" means equitable. I think it could have provided more details than it did.

Q But it did a fair job except in the area of an analysis of the defects and benefits of particular schools in the area? That is one area you find it did not?

A I did not think that was an acequate presentation.

Q The school part was not adequate?

A No, sir.

Q Have you yourself made an independent evaluation of conditions in the West Side Urban Renewal area?

A No, sir.

Q Do you know what the conditions of the schools are in the West Side Urban Renewal area?

A No, sir.

THE COURT: That is the only useless question you have put on your cross. Next. He says he has no intimacy with it at all. Why ask any questions about it? He was called for a limited purpose.

Q Have you been paid for your testimony in this case?

A No, I have not been paid yet.

Q When were you contacted by the attorneys in order for you to give testimony in this case?

A The contact for me to make testimony on today's appearance was made last week. There was a preliminary --

THE COURT: Last week is enough. Next question.

Q Last week. Do you anticipate getting paid for your testimony in this proceeding?

A Yes, sir.

Q Your pay here, is that a payment made to the Arthur D. Little Company or to yourself as an individual?

A To Arthur D. Little, Inc.

Q Other than Exhibits E and B, which you have reviewed, was anything else given to you by plaintiffs' lawyers in connection with your testimony here today?

A The only other thing given to me were copies of transcripts of some earlier presentations by Messrs. Starr, Roger Starr, and Commissioner Fried.

Q Did what you read in those statements by Messrs. Fried and Starr have any bearing upon the testimony which you are giving today?

A I think the only way it would have any bearing on the testimony I have given today is to prepare me to testify. I do not believe it has influenced the answers

I have given.

Q Are you generally familiar with what the objectives of the National Environmental Policy Act are?

A Generally.

Q Is that understanding that in connection with major federal action the agency involved shall first determine whether that particular action may significantly affect the quality of the human environment?

A Yes, sir.

Q And if the agency makes a determination that the proposed major federal action will not significantly affect the quality of the human environment, it issues what is known as a negative impact statement, is that correct?

A Yes, sir.

Q Is that what you interpret Government's Exhibit E to be, a negative impact statement?

A Yes, sir.

Q Have you ever before seen a Department of Housing and Urban Development impact statement other than this one?

A No, sir.

Q Do you know whether or not the Department of

Housing and Urban Development had, in connection with its study of this project, whether officials in that department had numerous conferences with various persons voicing different opinions as to the feasibility of this project?

A I do not know.

MR. LAND: I think I am finished, your Honor. Thank you.

THE COURT: Well well. Mr. Gold.

CROSS-EXAMINATION

XX BY MR. GOLD:

Q Mr. Foden, a couple of short questions.

You mentioned five projects in which you worked in connection with an environmental statement. I think that's what you said. That would be the Kennedy Library, one; a New York State bridge. Where was that?

A That was the Rye-Oyster Bay Bridge.

Q Did you work there in connection with NEPA or was that a state environmental statement?

A That was a federal statement being prepared by MTA.

Q The St. Louis Airport.

A Yes, sir.

Q And an airport in Palmdale. Where is that?

A California.

Q And various projects for the Massachusetts Health and Education Facilities Authority?

A Yes.

Q What kind of projects are those?

A Those are built under the bonding projects of the Health and Education Facilities Authority in Massachusetts in the health and education field.

Q Did any of those projects involve the concept of tipping point?

A No, sir.

Q In connection with the Kennedy Library, did you run across primarily a problem which related to increased traffic and congestion in Harvard Square?

A That is the issue that is being addressed, yes.

Q In connection with the bridge between Rye and Oyster Bay, what was the particular environmental problem that you were involved with there?

A There were a series of problems involved. One was whether in fact the building of that bridge would so alter the traffic patters that you will get increased congestion through the area.

Secondly, the impact which the bridge would

have on the communities at the respective ends of the bridge, as to whether it would change their character and change the amount of congestion and traffic and the problem of economic development. There was a subsidiary subject which dealt with open space land which the bridge would have to traverse in certain areas which was of concern from the conservation standpoint.

Q You were disturbing, then, perhaps some natural beauty?

A Yes, sir.

Q In connection with the St. Louis Airport, was that a noise-traffic problem?

A Yes, noise and traffic and also finding a site which would not be subject to flooding.

Q Flooding?

A Yes.

Q And Palmdale, California?

A Once again finding a site suitable for an airport.

Q Okay. And the various projects for the State of Massachusetts or its Authority, did they involve similar noise and traffic congestion type problems?

A Yes.

Q None of these projects, then, were housing

problems, is that correct?

A That's correct.

Q All of them involved the effect of some physical change on the surrounding area rather than the particular occupants of the project, is that correct?

A Yes, sir.

MR. GOLD: I have nothing further. Thank you.

THE COURT: Mr. Douw.

MR. DOUW: No questions, your Honor.

THE COURT: All right, sir. You are excused.

MR. BAKER: I have some redirect.

THE COURT Very well.

REDIRECT EXAMINATION

BY MR. BAKER:

Q Mr. Foden, I call your attention to Defendants' Exhibit E, specifically to the second page of it through the fifth page of Defendants' Exhibit E, a document referred to as special environment clearance work sheet.

Was that prepared apparently by the Department of Housing and Urban Development?

A As far as I could best determine, yes.

Q With the exception of that document and the one page covering letter on top of it or covering memorandum, is there any evidence that anything else in all

of Defendants' Exhibit E was prepared by the Department of Housing and Urban Development?

A It is not clear to me in reading it, but it would appear that -- you are referring now just to pages 2 through 5 or all of Exhibit E?

Q I am distinguishing between pages 2 through 5 and page 1 and the rest of the document.

A The rest of the document I am under the impression from having read it has been prepared by the City, by the Authority, rather, but pages 1 through 5 were prepared by HUD, Housing and Urban Development Department.

Q And after that there is an application prepared by the City of New York, City Housing Authority?

A Yes. I assume that that is, although I do not find a statement that declares that, in other words, the material which is entitled "West 91st Street - Columbus Avenue area, West Side Renewal area, Site 30, I assume from this exhibit was prepared by the Authority.

Q In fact, the draft environment clearance work sheet, which is the third sheet here, was prepared by the Authority and makes reference to attachments?

A Yes, sir.

Q Do all of the attachments or many of the attachments seem to be a combination or a series of

other documents which have just been attached and to which no reference is drawn in either the draft environmental clearance work sheet or the special environmental clearance work sheet?

A I think a number of them are not specifically referred to but one reads them in by reference. For example, the zoning resolution and the atmospheric information, while not specifically referred to by implication, they are supposed to provide backup for the questions on air polution although I find no specific reference linking them together.

Q In the special environmental clearance work sheet prepared by the Department of Housing and Urban Development, is there anything but casual and the most indirect kind of reference made to those, if any?

THE COURT: There is one other thing. One thing we have done here, we have abused it, not you necessarily, Mr. Baker, but once again a certain amount of time has been reserved for redirect. Redirect is only in the event something has developed during the course of the cross that needs to be encountered. You are going over material you covered adequately on direct. Therefore, remembering we are pressed for time, through no fault of the Court, I don't want to waste time on

anything that is not essential.

Now will you go to something else or else let me release the witness.

MR. BAKER: Yes. Excuse me, your Honor.

Q On cross-examination reference was made to a letter or memorandum prepared by the law firm of Demov, Morris, Levin & Shein which made reference to the panic flight of whites.

A Yes, sir.

Q Is there any evidence at all in Defendants' Exhibit E, which is the several environmental documents, that the particular concern expressed by and in that letter were considered?

A I do not find that specifically addressed, no.

Q With regards to neighborhood stability generally, is there any evidence in the first pages -- in the HUD-prepared portion of Defendants' Exhibit E that neighborhood stability was considered adequately?

A No.

Q With regards to the consideration of alternatives, is there any evidence that site alternatives were considered?

A No, sir.

Q In your opinion, Mr. Foden, is a sample of housing transactions which totals less than 20 transactions over a five-year period a meaningful sample in an Urban Renewal area where there are well more than 10,000 units?

A No, sir.

Q The inclusion of documents of opposition or raising opposition arguments with the project application itself give any indication that the substantive issues raised in opposition were in fact considered?

A No, sir.

MR. BAKER: Thank you. That's all.

THE COURT: Anything pertinent, gentlemen, by way of recross?

MR. LAND: One question.

THE COURT: Yes.

RECROSS EXAMINATION

XXX BY MR. LAND:

Q Mr. Foden, you identified as to Defendants' Exhibit E material prepared by HUD as just the first three or four pages, is that correct?

A I believe that is what I said -- I am not certain of this, but my interpretation is that that is appended to the HUD material but that at least in reading

it I was assuming it was prepared by the Authority for presentation to HUD. I may be incorrect in that. I do not know.

Q I call your attention to part of the study about two-thirds of the way through entitled Evaluation of Application for Low Rent Public Housing, West 91st Street-Columbus Avenue, West Side Urban Renewal area, Site 30.

Do you find that?

A Is this the one starting, Two, description of proposed project?

I am sorry.

Q You now have what I referred to.

A Yes, sir.

Q Do you know who prepared that?

A No, sir, I do not.

Q Having seen this part I have just referred you to, is it still your testimony in your opinion what HUD prepared was simply the first three or four pages? Is that correct?

A No, I say I do not know who prepared it.

MR. LAND: No further questions.

THE COURT: Anything else, gentlemen?

Very well, you are excused sir.

(Witness excused)

J A M E S W I L L I A M G A Y N O R , resumed.

THE COURT: Commissioner, you understand you are continuing with your testimony under oath?

THE WITNESS: Yes, sir.

THE COURT: Mr. Gold.

CROSS EXAMINATION

XXX BY MR. GOLD:

Q Mr. Gaynor, in your role as Commissioner of Housing and Urban Renewal for the State, you had an interest in many Urban Renewal areas, did you not?

A Yes, sir.

Q And your jurisdiction was statewide?

A Yes.

Q So that you did not have a particular concentration on the West Side Urban Renewal area, did you?

A No, sir.

Q Now, you mentioned that in May of '62 the Housing and Redevelopment Board in its statement indicated that there would be 1630 units of low income, is that correct?

A Yes.

Q Can you tell us what statement in particular you are referring to?

A Would you repeat the question, please?

THE COURT: Mr. Court Reporter, would you please do so.

(Question read)

A I do not hear have the record for that statement, but I would stand by that statement, that it did come from the Housing and Redevelopment Board.

end t

Q That was May of '62?

A Yes.

Q You also said in October of '62 a statement made made that 2465 low income units would be produced in the urban renewal area. What statement are you relying on in connection with that?

(Pause.)

A What page of my statement is that on?

Q This is from your testimony. In particular I refer you to Page 2726 of the transcript, Line 16. I read to you: "By the same HRB housing redevelopment board in October of '62, they reported 795 public housing units new construction, 480 public housing rehab units, 210 public housing at PS-93 site and 980 limited profit housing, a total of 2465 units."

That is from your own testimony.

A That total units is correct.

Q That is a statement, you do not have with you or do not remember, made by HRB, is that correct?

A Yes. I would abide by that statement.

Q But you don't know the source of the September HRB generally?

A That's right.

Q You went on to say that in September of '66 HRB reported in a statement that there would be a total

of 559 units. Do you have the source or do you know the source of that statement in particular?

A Yes. 2559 units comes from a statement of Jason R. Nathan. The date is December 9, 1966.

Q I show youDefendants' Exhibit F, which is a resolution of the Board of Estimate of the City of New York December 9, 1966. I direct your attention to that resolution and what appears therein. Is that the document on which you place reliance for the figure stated?

A Yes.

Q Do you notice, sir, in the top there the Board of Estimate speaks there of a minimum of units?

A Yes.

Q Was it your understanding that that 2559 would be a minimum of units?

A Yes.

Q In the West Side Urban Renewal area there are several state-aided Mitchell-Lama projects?

A There are two.

Q Do you know the names of those?

A There is Westgate and I believe it is Columbus Gardens.

Q Central Park Gardens?

A Yes.

Q Do those projects contain low rent assistance or capital grant units?

A To my knowledge, yes.

Q Are there any other Mitchell-Lama developments in the area which contain capital grant lower assistance units?

A I believe so.

Q There was no constraint on the State Housing Division in putting capital grant units in City-aided Mitchell-Lamas, was there?

A None.

Q Was there a particular percentage of capital grant units that the State was required to stay within a given project?

A The limits were more administrative than legislative.

Q When the capital grant program was initiated in the mid-sixties, it was a completely new venture into the subsidizing of low income families to live in middle income developments, and the legislature insisted upon certain restrictions. The restrictions were that the base rent, which would be the public housing rent, would be that which prevailed as a maximum rent in New York City, which was $18.

Q In capital grant units.

A Yes. And then the difference between that and the middle income rent would be subsidized over the payment of 20 per cent of the tenant's income.

Initially that was restricted to 20 per cent of the total apartments in dwelling unit. Upon request of the City to reconsider when it developed a policy for financing up to 30 per cent, there was no particular objection insofar as the State was concerned except for the availability of funds, and it was the availability of capital grant funds which had to be voted by the legislature, which was not a subsidy program, which would be available every year, but an amount that would be appropriated as a capital grant to the division each session of the legislature and consequently it was not always possible to determine what that percentage would be.

Q Did there come a time when the City requested you as Commissioner of the State Division to bring your capital grand assistance program into more of the projects or into the existing projects on a higher percentage basis.

A Yes. The City did.

Q When was that, do you recall?

A I do not.

Q What was your reaction, or the State Division's reaction, to that request?

A It ws a rather high number, the 30 per cent. Insofar as I personally was concerned, I would accept the high number inasmuch as that seemed to be the policy of the City administration, but to the extent we had the funds for that.

Q Did you at any time suggest to the city that they should use the Section 23 leased public housing program in lieu of your capital grant program for the low income units?

A The section 23 money did not come in at that time. That came in subsequently.

MR. GOLD: May I have this marked for identification.

xxx (Defendants' Exhibit AB was marked for identification.)

Q I show you Defendants' Exhibit AB for identification and ask you if you recognize that letter and whether that is your signature on the letter?

A Yes, it is.

MR. MORRIS: What is the date of that?

MR. GOLD: April 19, 1967.

I offer it in evidence.

THE COURT: Show it to counsel.

MR. MORRIS: We have seen it already.

THE COURT: Any objection?

MR. MORRIS: No objection.

THE COURT: It will be received in evidence.

xxx (Defendants' Exhibit AB was received in evidence.)

Q Mr. Gaynor, I show you this letter, Exhibit AB in evidence, and ask you whether or not that letter was written in response to the City's request for additional State capital grantunits in certain projects?

A I presume it was when I see it crossed in the mail our letter of April 7th.

Q What was your response as indicated in that letter, sir?

A We suggested that we utilize a Federal lease program in other than Mitchell-Lama projects.

We also reiterated that the Housing Authority should apply for a State loan project equivalent to Stephen Wise Towers.

Q You recommended to the City by way of this letter that they should develop a project the size of STephen Wise Towers for public housing?

A Yes.

Q And Stephen Wise Towers, I think you testified, was 399 units, is that correct?

A Yes.

Q So in 1967, sir, you were in favor of developing a 399 unit project of all low income public housing, is that correct?

A Yes. May I say that was in the absence of sufficient capital grant funds to accommodate the low income families when the State had sufficient loan moneys to accommodate the development of a public housing project?

Q That would account then for your testimony that indicated that the City did not always take advantage, I think you said, of State moneys that might have been made available to them, correct?

A Yes, that's correct. The request was made to me by one of the neighborhood groups representing the West Side Urban Renewal project in a meeting at my office at which time I indicated there was still remaining money in the State's loan and subsidy contractual location for an additional public housing project.

Q In this letter you say that -- I am confused because you say that was in lieu of using the capital grant program?

A Yes.

Q But you suggest in here using the Federal lease program, it says, in other than Mitchell-Lama projects, and I think you meant in other Mitchell-Lama projects, and on top of that taking advantage of the loan and subsidy possibility for the big public housing project?

A The public housing project.

Q One similar to Stephen Wise?

A Yes.

Q There were two phases. Rephrase the capital grant with leased public housing and a project equivalent to Stephen Wise?

A Yes.

MR. GOLD: May I have this marked for identification.

xxx (Defendants' Exhibit AC was marked for identification.)

Q I show you this letter dated April 7, 1967, addressed to REverend Henry Browne, Strycker's Bay. Is that a letter you wrote?

A Yes.

MR. GOLD: I offer it in evidence.

THE COURT: Any objection?

MR. MORRIS: No objection.

THE COURT: It will be received.

xxx

(Defendants' Exhibit AC was received in evidence.)

Q Is this letter, Mr. Gaynor, substantially similar in terms of its import as Defendants' Exhibit AB except that this is addressed to the Strycker's Bay Neighborhood Council?

A Yes.

Q Making the same general recommendations?

A Except that there is more detail there with respect to the revision of the State capital grant program.

Q But it does recommend a project similar to Stephen Wise and utilizing leased housing in Mitchell-Lama projects, correct?

A Yes, sir.

Q Your critique or study on the West Side indicates that in three of the Mitchell-Lama buildings there are 80 per cent low income. What is the basis for that conclusion?

A I believe I testified that the renting agent, Mr. Bromberg, advised me that the 30 per cent which was the low income tenancy polls, had been exercised and that additionally of the remaining 70 per cent some 70 per cent of those, or 49 per cent, represented welfare recipients who were assigned to Mitchell-Lama 236, two at the time I talked to him and subsequently a third.

Q Who was this you talked to about this?

A Mr. Bromberg.

Q He told you about the three projects?

A He told me about the two and subsequently it was my understanding that the Leader House was tenanted on the same basis as Columbus and Westwood.

Q Just the blanket statement there is 49 or 50 per cent of the 70 per cent that is low income instead of middle income, correct?

A Correct.

Q In your testimony you spoke about severe enrollment problems in the public schools. I think you said you walked through the schools, is that correct?

A The severe enrollment problems, sir, were in connection with the report of the original urban renewal project which talked about the problems in the school. I walked through Public School 84 and Joan of Arc.

Q Through the halls?

A That's all. I did not visit the classrooms.

Q Did you visit any other schools in the West Side area?

A No, I did not.

Q In walking through the halls were you able to make a determination as to whether those schools were over-

crowded?

A No.

Q Did you inquire at any time of the community school board or the community superintendent or the central board of education as to the utilization figures for those schools?

A I could get no information with respect to the school problem because I had directed my inquiry to the HDA and to its office in the West Side Urban Renewal project and there they refused to give us any information on advice of the Corporation Counsel.

Q Did you at any time direct any inquiry to educational authorities in the City of New York with reference to those schools?

A No.

Q When you were in the school and walking through Joan of Arc and 84, did you have any discussion with the principal of the school?

A No.

Q You walked in and walked through the halls, is that correct?

A That's right.

Q I think you said you saw a good many non-white students in the school.

A That is particularly true of the junior high school.

Q Joan of Arc?

A Yes.

Q Do you know if any of those non-white students are low income people?

A I would have no idea.

Q You also said the discipline was lax. Have you visited any other schools in the City of New York except Joan of Arc and PS-84?

A No, sir.

Q Is it possible that there is a laxity in discipline in the public school system throughout the City of New York?

A Yes, sir.

Q Not particular to those two?

A No.

Q In connection with Sites 41 and 44, down at the southern end of the urban renewal area, and the projected development there, I think you said if they are 236 financed, which is a prob ability, there might be some problem with their marketability or the feasibility of those projects, is that a correct statement?

A Yes.

Q Would you prefer to see a 236 State development go up there or leave it as it is?

A By all means have the State enter the picture.

Q Even though it is a 236 development?

A Without 236 there would be no middle income housing unless there are some other devices.

Q So straight economic rentals are just not marketable on the West Side, correct?

A For the project as a whole, I would say they are not marketable at economic rentals.

Q If no welfare assisted families were permitted in the future 236 developments in the West Side area and those welfare assisted families that may be in the three developments in the middle income or 70 per cent portion, Columbus Manor, Westwood House, and Leader House are vacated or move out, would you still feel that the entire West Side project is jeopardized?

A If you will, your supposition, I think, is erroneous because I think it is practically impractical and impossible for those welfare tenants to move out. I don't believe that I can accept the City's new policies of not replacing those apartments presently tenanted by welfare clients when there is a turnover of the welfare clients for the reason that inmy opinion there will be relatively

no turnover in those apartments occupied by welfare clients.

THE COURT: On what do you base that opinion?

THE WITNESS: Welfare clients, your Honor, in the main have little mobility, little opportunity to achieve the tenant status that would be made available in these Mitchell-Lama 236 projects. It is easy to state without almost equivocation that this would be the best housing that those people possibly had ever enjoyed, certainly had enjoyed in the present or recent past, and for that reason would have no motivation to move unless they were able to remove themselves from the welfare roles, to so increase their income they could afford to move to other accommodations.

THE COURT: In other words, their special and emphatic limitation of funds sort of nails them down to that area, to their circumstances, by way of residence.

THE WITNESS: Yes, sir.

THE COURT: That is one of the factors.

THE WITNESS: Yes, sir.

THE COURT: Proceed.

Q In your experience with the West Side Urban Renewal area are you aware of the fact that there was a primary policy running through the development of the area which provided that former site occupants or people dislocated from the site had a first priority to return?

A Yes.

Q Would that be true with respect to all types of units, assuming they met eligibility requirements and could pay the rent?

A Yes.

Q That would be true with respect to Westwood, Columbus Manor, and Leader House as well, would it not?

A Yes.

Q By the way, inthe period between May of 1972 to this point, have you revised, or been in a position to change any of the things in this?

A I think I already changed the table with respect to the census data.

Q Through your testimony you mean?

A Yes.

Q You have not done that in writing, you have not supplemented this in writing, have you?

A No.

Q I refer you in particular to Page 3, the first full paragraph starting with "Meanwhie." You indicate two projects, one of 2525 units and one of 2193, and you say they were in the northern periphery of the area. You meant outside the area, did you not?

A Naturally. In the periphery.

Q Moving down to the next paragraph, you refer to a 1968 progress report community development program in which you state the public housing units remained constant at 800. Could you explain what you meant by that?

A BEcause the earlier report that I mentioned was also 800.

Q But in 1968, sir, weren't there more than 800 public housing units in the West Side?

A Not according to the HDA progress report, low income, 800.

Q Was that new construction they were referring to?

A I could not tell you, but it said public housing units and that also could include rehabs, but I am assuming they were talking about new construction, redevelopment rather than rehabilitation.

Q There were rehabs, though, a great many of them that were produced by the Housing Authority?

A Yes.

Q Prior to 1968?

A Yes.

Q The leased public housing program was in effect, was it not, prior to 1968?

A Yes.

Q Would you say that those were public housing

units as well as the high risers?

A Yes.

Q So you had 800 apparently high rise units in the four projects or so that were built and then you had these other units in 1968, correct?

A Yes.

Q You say further down, by 1972 the housing mix was revised in order to accommodate various financing programs made available. What in particular was done in 1972 that makes you make that statement?

A That is when I revisited the project.

Q You indicate that the changes, the various financir programs, were the State low rent assistance program . That would be your capital grant program?

A Yes.

Q But you also testified that that was in existence since 1965?

A Yes.

Q So what does that have to do with 1972?

A The housing mix was revised in that there were more public housing units than the 800 as scheduled because they took advantage of the STate's program, the 221D3 succeeded by 236, and the public housing leased program, and in addition to that there was the skewed rent schedule

which the City had introduced which also broughtin low income families.

Q But the skewed rent schedule was around when the original plan was developed, was it not?

A Yes.

Q As a matter of fact, it was mentioned in the original plan, wasn't it?

A Yes.

Q So that was nothing new in the West Side?

A No more than the capital grand program was.

Q Or the leased public housing program?

A Yes.

Q Or the 221D3 job they did?

A Correct.

Q You also said that the 1972 revisions resulted in the increase of the number of public housing projects from two to six. Isn't it true thatin 1972, as a matter of fact, in 1966, there were four public housing projects and not two, isn't that correct?

A Yes.

Q What does the increase from two to six mean? YOu say the 1972 revisions resulted in the increase of the number of public housing projects from two to six. What did you mean bythat?

A By 1972 the entire housing mix was revised. The 1972 revision resulted, I am saying by 1972, in my introduction. I mean by 1972 these revisions resulted.

Q Isn't it true there were four public housing projects provided for in the original 1962 plans, sir?

A The original proposition in 1961 called for 800 low income units.

Q That was your four public housing projects?

A Yes, right.

Q So the number 2 to 6 is wrong, is that correct?

A That would be correct.

THE COURT: Which is correct?

THE WITNESS: It would be six. It would be four to six.

THE COURT: Instead of from 2 to 6?

THE WITNESS: Yes, sir.

Q I refer you to Page 10 of your report, sir, second full paragraph. You state that Federal counterpart, meaning the Federal counterpart to your State capital grant program Section 236, establishes no percentage limitations and if not restricted can result only in an alternate to public housing.

Could you explain what you mean by that?

A Your 236, the financing s of a development of

a project and the subsidy formula, with which I am sure you are familiar, the difference between this and the economic rent, and that applies and can apply to all of the units.

Q So what you meant was that it can be a 100 per cent 236 program?

A Yes.

Q Rather than your, for example, 20 per cent capital grant program?

A Yes, sir.

MR. GOLD: Your Honor, I have no further questions but I believe that during Mr.Gaynor's direct testimony, particularly I think inreference to the testimony in connection with the school situation, I had moved to strike that testimony and you had reserved or asked me to reserve my motion to strike and take it up on cross-examination. I now renew that motion to strike, your Honor, based on the fact that aside from walking through the schools, the two schools, there is absolutely no foundation for the testimony of Mr. Gaynor in connection with the school situation in the West Side.

THE COURT: What do you say to that, Mr. Morris?

MR. MORRIS: I say Mr. Gaynor was generally familiar with the area having been familiar with it as Commissioner during the period of the development of the project during the 1960s, right

through those years and was familiar with what was in the project and then went back in 1972, when he did his report.

THE COURT: It was a cursory examination.

MR. MORRIS: Except that preceding that was the ten years of full familiarity with every hing that was going on.

THE COURT: I will leave it in, but I might as well tell you it gets very little weight. While it is admissible, it is not weak enough to hurl out, I do want you to know I am leaving it in but on that issue the Commissioner's testimony will be given little weight.

MR. GOLD: Thank you.

THE COURT: Mr. Douw, does anything occur to you?

CROSS-EXAMINATION

BY MR. DOUW:

Q Mr.Gaynor, I believe you testified that in the period of the 1950s, the area that became the West Side Urban Renewal area experienced an immigration primarily of black and Puerto Rica families.

A This was the original report of the Urban Renewal Renewal Board that made the original presentation.

Q I show you a copy of Defendants' Exhibit A entitle "Urban Renewal" published by the City Planning Commission,

and I ask you if you remember reading this document?

A Yes, I do.

End 5 PM

Q Is it on that document that you rely for your observation and information that the in-migration during the period of the 1970s was primarily black and Puerto Rican families?

A The in-migration of this member of all black and Puerto Rican families --

THE COURT: That is not Mr. Douw's question. Repeat it, please, Mr. Court Reporter.

(Question read)

THE COURT: Is it primarily on that document is all he asks at this juncture.

THE WITNESS: Yes.

THE COURT: Next question.

Q And did you also testify that the families that moved into the area were in the main low income families?

A Yes.

Q And was it also on Government's Exhibit A that you relied for that information?

A Yes.

Q Mr. Gaynor, I refer to pages 10 and 11 of Defendants' Exhibit A, which I will show you in a minute if you care to read this portion of it, but I would like to read a certain paragraph and ask you if this surprises

you.

"Although the total white non-Puerto Rican population did decrease by roughly a quarter between 1950 and 1956, nevertheless white non-Puerto Rican families surprisingly constituted more than half (6300) of all families who moved in during the period. Furthermore, the fact that the median income in the Study Area increased by more than one-third indicates that the white families and individuals who moved into the Area must have had above-average incomes to compensate for the below-average incomes of the majority of Puerto Rican families."

And I should say that the Study Area in this report is the same area as what became the West Side Urban Renewal area. If you like, I can show you the pages I referred to, if you would like to read them before I ask the question (handing).

A Yes.

Q Does that statement surprise you in view of your testimony?

A Not necessarily. It states that the individuals who moved into the area, the while families and individuals who moved in the area, must have had above-average income to compensate for the below-average incomes of the

majority of Puerto Ricans.

Q But doesn't the passage I read say that white families constituted more than half of those that moved into the area during that period?

A Yes.

Q Does that statement surprise you?

A What?

Q Does that statement surprise you?

A No. The West Side Urban Renewal area, to repeat, as I testified earlier, is a strong area and the reason that this study I believe was introduced was that the Urban Renewal Board was concerned that it was deteriorating, and a statement as to its deteriorating is there on page 27 about the changes. This is the basis of my reporting the rationale for the introduction of this Urban Renewal project.

Q But did you not testify that the families moving into the area during the 1950s were primarily black and Puerto Rican families?

A Yes.

Q And does that square with the statement in Government's Exhibit A that more than half of the families that moved into the area were no-Puerto Rican families, is that correct?

A That's correct.

Q Does one statement square with the other?

A No, sir.

Q I believe you testified that during the late 1960s when you were still Commissioner there were a number of things that you became concerned about as far as the progress of the development of the Urban Renewal area, is that right?

A Right.

Q And you mentioned that you had received communication, if I understood your testimony correctly, from a certain group that expressed general dissatisfaction with the progress of the area, is that correct?

A That's correct.

Q Was that one group that you were speaking of?

A Yes, sir.

Q Do you know what that group was? Do you recall?

A It was the group headed by Father Browne.

THE COURT: Mr. Douw, did that group have a name?

MR. DOUW: Strycker's Bay, your Honor. Father Browne was then the president, I believe, of Strycker's Bay.

THE COURT: Is that correct?

THE WITNESS: Yes, sir.

THE COURT: Then Strycker's Bay is what you meant when you said Father Browne?

THE WITNESS: Yes, your Honor.

Q Mr. Gaynor, when you discussed the welfare figures in two of the buildings with Mr. Bromberg, that there were 80 percent welfare there, did you discuss with him the various programs that come under the general term of welfare?

A No, sir, he did not testify there were 80 percent welfare. There were 80 percent low income.

Q What was the information he gave you insofar as the number of welfare families were concerned?

A 50 percent.

Q Of the 50 percent, was there any discussion between the two of you as to what the various programs were that come under the general category welfare?

A No.

Q Do you know what those programs are? Do you know their various names?

A No.

Q Are you familiar with the term Aid to Families with Dependent Children?

A Yes.

Q Do you know what that program is?

A Yes. It is the assistance of families with dependent children.

Q Is that a welfare program?

A Yes, it is.

Q Are you familiar with the program called Home Relief?

A No, I am not.

Q Are you familiar with a program called Aid to the Blind?

A Yes.

Q Aid to the Disabled?

A Yes.

Q Are those welfare programs?

A Yes.

Q Did you discuss with Mr. Bromberg what he meant by the term "welfare"?

A No, not specifically.

Q You made no breakdown nor did he as to what various programs --

A No.

Q -- when he said there were 50 percent welfare he made no breakdown as to what programs that welfare was?

A No.

Q Mr. Gaynor, I give you Defendants' Exhibit S again and I have several questions with reference to it.

The first one on the list, Sites 1, 2 and 3 entitled Westgate --

A Yes, sir.

Q Do you see it on Exhibit S there?

A Yes, I do.

Q Is that a state Mitchell-Lama project, do you know?

A It is.

Q Do you know what the rents of the capital grant units were, if you recall, what the rents were that were charged under the capital grand program?

A Initially $18.

Q For Westgate in particular?

A Westgate, no. Westgate I believe -- Westgate in 1969 it says was occupied, according to this.

THE COURT: According to S, you mean?

THE WITNESS: Yes, according to Exhibit S that I have before me, it was occupied on January, 1969, and I was not the commissioner of housing at that time.

Q I should tell you that I think you may know Exhibit S has been stipulated to by the parties as to the

facts.

Let's take, then, Site 13, West Side Monor, which was occupied in November, 1968.

Were you still commissioner at that time? I am referring to the second page.

A Yes, sir.

Q Is that a state Mitchell-Lama project, if you recall?

A Yes, it is.

Q What were the rents charged for the capital grant units in that project, if you remember?

A $18.

Q $18. Site 14, Independence House, is that a state Mitchell-Lama?

A No, sir.

Q Do you know what the rents were charged for the capital grant units in that?

A I do not know. But may I assume?

THE COURT: No, please.

THE WITNESS: I do not.

THE COURT: Next question.

Q During your period as commissioner, did the capital grant units come in at a rental equivalent to public housing at all times?

A Yes.

Q They did.

MR. DOUW: No further questions, your Honor.

THE COURT: Is there any redirect?

MR. MORRIS: Yes, there is, your Honor.

THE COURT: Of real value?

MR. MORRIS: I hope so.

THE COURT: If not I will throw it all out.

REDIRECT EXAMINATION

XXX

BY MR. MORRIS:

Q Mr. Gaynor, preceding the section of Defendants' Exhibit A which Mr. Douw read to you, does there appear the following language which would tend to explain what he read to you:

"During the post-war period, when new building activity revived in many parts of the City, construction remained virtually dormant in the Study Area."

The Study Area being the West Side Urban Renewal area. You understand that, Mr. Gaynor?

A Yes, sir.

Q "But the area's population did not. In the six years from 1950 to 1956, the number of persons living in the Area increased from 33,000 to 39,000, a 16 percent raise. Equally significant, 7 out of every 10 families

who lived in the Area in 1956 had not lived there in 1950.

"At first glance, there appears to be a relatively simple explanation" --

THE COURT: Mr. Morris, please.

MR. MORRIS: Your Honor, may I explain what --

THE COURT: That can be called to the fact-finder's attention. You can say, "Judge, I want to read to you from that very exhibit the following data" and that's all. We don't need him. It's in evidence.

MR. MORRIS: May I read it to the Court?

THE COURT: Finish it.

MR. MORRIS: It immediately precedes the sentence read by Mr. Land. "At first glance, there appears to be a relatively simple explanation for this drastic population change. The Study Area, or portion of it at least, has become a kind of reception center for the newest of the large-scale migration into the City, that of the Puerto Ricans. From 1950 to 1956, the Puerto Rican population of the Area increased almost eightfold from 1700 persons to 13,000 persons. Moreover, the Puerto Ricans, because of language and culture differences, are as conspicuous today as were once the great waves of European migrants, from which most New Yorkers are not too many generations removed."

And then it goes on into the statement which Mr. Douw read.

THE COURT: You are aware of what Mr. Morris just read?

THE WITNESS: Yes, sir.

THE COURT: Were you familiar with that at the time you gave your testimony?

THE WITNESS: Yes, sir.

THE COURT: Next question. Is that all?

MR. MORRIS: No, that is not all. I have others.

Q Commissioner, did the State Commissioner of Housing have any jurisdiction with respect to the relocation of tenants in the West Side Urban Renewal area?

THE COURT: Yes or no.

A No.

Q Now, the 2500 units which you testified to as being contemplated, low income units, were they contemplated to be the number of units upon completion of the project?

A Yes.

Q And isn't it true that the project is not completed as of now?

A Yes.

Q Now, with respect to the conclusions that you testified to as to the area, were they based upon your general knowledge of the area obtained while you were the State Commissioner of Housing in addition to th e conversations that you had with Mrs. Liebert, Mr. Fine and Mr. Bromberg?

A Yes, and my general observations also were based upon my tour of the project area in September of 1973 and only last week.

Q In connection with the letters that were introduced through Mr. Gold with respect to your recommendation for more public housing, wasn't that made in response to the City's request for low income housing funds? Isn't that what the bases for those letters was?

A Yes.

THE COURT: In other words, what precipitated those letters?

THE WITNESS: It was precipitated by the City asking for additional capital grant funds for City aided Mitchell-Lama projects, and I believe I testified earlier that the State had been excluded, after it had completed two Mitchell-Lama jobs.

THE COURT: You did so testify.

A And it was my feeling, as I releated in the letter to the then Administrator that I felt that the State funds should be reserved for State aided projects but I did have sufficient loan and subsidy funds to accommodate the construction of another public housing project.

Q But that was not an evaluation on your part that this area needed more public housing, was it?

A No, sir. It was an ability to --

THE COURT: No, sir, is the answer.

MR. MORRIS: That's all, your Honor.

THE COURT: Gentlemen, is there anything further?

MR. MORRIS: Your Honor --

THE COURT: Wait a minute, I will ask them first.

MR. LAND: No, your Honor. He has one exhibit he put away in his briefcase. That is all.

THE COURT: It is a quarter of 5:00. It does you credit. Your alertness should be commended.

MR. MORRIS: Your Honor, that proves embarrassment to me.

THE COURT: Because he is your witness.

MR. MORRIS: No. I assume that this cross-

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examination would last longer than it did and I therefore --

THE COURT: Don't give me that stuff.

MR. MORRIS: I therefore do not have the next witness available.

THE COURT: It is a quarter of 5:00 and I told you to be ready. You had no way of measuring this. In fact, it was longer than I actually thought it was going to be, Mr. Morris.

MR. MORRIS: I have only one more witness.

THE COURT: That doesn't mean anything. You might keep him here all day.

THE COURT: This witness I have coming 9:00 o'clock tomorrow morning. The witness will be here 9:00 o'clock. I assume with Mr. Foden, as the expert witness, and Mr. Gaynor, the completion of his cross, I would need my next witness tomorrow morning, Roberta Gratz, who was here on Friday, and I had told her originally to come this morning, but because of Mr. Foden having to leave I told her that I would use her tomorrow.

THE COURT: I obliged you as to Foden. Gaynor is now finished. What have you got left?

MR. MORRIS: One more witness, Roberta Gatz. She is not here, your Honor.

gwjw 15

THE COURT: Gentlemen, I don't want this to happen again. If I find that happens, you remember I said to you that I have had to go to unusual lengths in order to accommodate the change in trial time and I have asked you to cut it down to the bone, I have asked you to make concessions, I have asked you to do those things that lawyers who find that they did underestimate their trial time do to the Court in order that the Court may proceed with its own assignments with other people who also have a right to their justice. I pointed out to you there are people languishing in jail who have the presumption of innocence in their favor. I therefore must say to you that if you do this again you will contact stricture from me that you will not wish. You will have to put you -- make up your minds just what you need that is essential and I am afraid you will have to forego a great deal of secondary and tertiary evidence that you might have put in had this case been tried within the original time limits. So please revamp it accordingly and let me not have any more perturbation on that score.

Gentlemen, I don't want to have to be rough or tough about this, but I insist that the Court not be disregarded any more than the Court disregards you.

With that understanding, we go over promptly to tomorrow morning at 9:00 o'clock, and I ask you please to engage in such maneuvers as will expedite the balance of this trial.

I ask you again to stipulate and to enter into concessions as often as you possibly can in the light of what has happened here with regard to the trial time.

If you have got anything to say on that score, please say it now. We have some time. I would like to straighten it out. I would like to feel that the lawyers are not waiting to see the judge pull out the whip and then when they hear the crack of the whip they will do something. I don't want that. You might as well be frank with me.

Mr. Land, you rise to your feet. What do you want to say?

MR. LAND: As to stipulations, Mr. Morris and I have reached an agreement on some documents.

THE COURT: Great.

MR. LAND: Those being the documents we have already discussed, one being the City Planning Commission Handbook as to District No. 7, and the other being the two volume study --

The record discloses all of that. We are waiting for Mr. Morris. He was to study it over the weekend. You think the judge forgets. You sort of make believe the judge doesn't know what is going on. You haven't got the nerve to say it because if you do I will show you I know what's going on.

MR. LAND: We have agreed to let those go into evidence. Why don't you say so?

MR. MORRIS: I have agreed.

THE COURT: That would curtail ~~curtain~~ a lot of my comments. That would show you are carrying out what the Court asks.

MR. MORRIS: I was about to tell your Honor we met for two hours this morning, all counsel, in this building in Mr. Land's office and went over a multitude of matters which we feel will expedite the completion of the trial.

THE COURT: I adjourn with a great deal of satisfaction unless you destroy the effect of that last comment. I think we had better leave the bench.

MR. DOUW: Your Honor, there is one item with reference to Mrs. Gatz' testimony tomorrow morning, Mr. Morris' witness, that we might expedite things in the morning if we had a discussion about it now.

There is a great deal of CONTINUE material that I understand she is going to introduce into evidence. I had a discussion with Mr. Morris about this this morning and I believe he wanted to introduce it as one exhibit. That would present a problem inasmuch as there are certain items in there that I think would call for an objection for hearsay, for relevance and a couple of other items. I thought we might spend time this afternoon getting that straightened out. It might save time in the morning.

THE COURT: I wish you would.

Mr. Morris, initially a great deal of the kind of correspondence that I think Mr. Douw is referring to does not become essential until it's challenged. Your witness is going to say something and if that's challenged that's one thing, then you have a right to introduce material that backs up your witness. But I don't think ab initio you are bound to do that every single time your witness has something to say. "I now show you a letter from CONTINUE. That in essence what you just got through saying". You don't need that and I won't permit the cluttering up of the record. I am doing it generally speaking. Until she is challenged, then I would withhold that kind of thing except vital

correspondence that goes to the very maw, the guts of the case. All right?

MR. MORRIS: All right.

THE COURT: Would you sit down with Mr. Douw this afternoon? Make believe I held you here to 5:30. You have 40 minutes. Talk to him. He wants to expedite things. Will you do that?

MR. MORRIS: Yes. May I state to your Honor that I have served copies of all of those papers on my adversaries already.

THE COURT: But that means he has to examine and he has to lengthen the trial and he is right, he shouldn't just take documents and have them go in without trying to smash away at it. I ask you not to give him bases for smashing away that doesn't help your case.

MR. MORRIS: I will accept your Honor's suggestion and when I put Mrs. Gatz on tomorrow I will have her testify to what occurred and to whatever extent one of the documents is needed to substantiate her testimony, I will introduce it. Otherwise I will not introduce it.

THE COURT: Thank you very much. And you have gained something, Mr. Douw. I think you ought to follow it up and I think in the spirit of that he ought

to indicate what letters he things ought to go in. That means the rest of them should not go in unless there is really an emergency of some kind or other.

Mr. Land?

MR. LAND: Plaintiff informs us now the case will probably conclude tomorrow morning.

THE COURT: Yes, sir.

MR. LAND: As is the practice in this court generally defendants make a motion to dismiss.

THE COURT: Yes, sir. I would like to discuss that with you. I think I can take the words out of your mouth.

What I propose is something I have been doing for these many years, and that takes time. If this were a palpably weak case to the point where I would have to say out at this juncture, I would indicate full bodied argument and memoranda. I can't conceive of myself doing it no matter how threadbare, assuming for the sake of argument, it is. Accordingly, in order to save time, you will make your formal motion, I will reserve decision, I will give you time to present a memorandum which need not be in detail because I know that you are laboring under -- I am going to presume you are going to labor under the additional concern of the Court that you address

your efforts to the balance of the trial. I don't want to take you away from that. If you will give me a memorandum that will just highlight your argument, points 1, 2, 3, without any expansion, I will be satisfied with it. If I need more I will call for more. This is your argument, this is why it should be dismissed, and if you will just give me a couple of sentences on each point, a sort of telegraphic memorandum, I will be content with it. We will reserve decision and I always have time to rule on that.

Is that satisfactory?

MR. LAND: Fine. One last problem is last week Mr. Morris indicated there would be additional plaintiffs' witnesses.

THE COURT: Don't destroy it. He is calling only Mrs. Gatz.

MR. LAND: By reason of plaintiff dropping some witnesses off their list, that advances the defendants' case.

THE COURT: Good.

MR. LAND: To some extent it is like a race at Churchill Downs before all the horses are in the stall. We are still putting our horses in the stall. So we will have witnesses to go Tuesday.

THE COURT: Plenty of time. If you want to call them out of order I will understand. All of that I will understand. You have no jury here. I will respect your good intention and you do the best you can under the circumstances, but I want the hours filled. I haven't sent other people away in order to just sit here idly. This is the first time I have had real cause to complain with regard to evidence not being available. Mr. Morris has been faithful in that regard. He has always had witnesses ready and he has put them on. But I don't want any more of that waiting for any witness. I want them taking the stand and take out of them what you wish. Is that all right, Mr. Land?

MR. LAND: Yes, your Honor.

THE COURT: So I will go along with you.

MR. MORRIS: There is another matter that we can cover at this time since we have a few minutes.

There were three witnesses, your Honor, who were to do additional things in connection with my prima facie case. One was Mr. Fried, who was to come back for further cross-examination in connection --

THE COURT: Don't worry about it. All the witnesses who have not been called back will be allowed to take the stand at any time during the defense in

order, from the practical point of view, to complete their testimony and not hold up going forward. If their testimony was of such a nature that your prima facie case was dependent upon it, you would have another problem. No matter what they have to say that will not alter the Court's position with regard to whether or not there is a prima facie case.

Is that satisfactory?

MR. MORRIS: That is satisfactory.

THE COURT: Thank you, gentlemen. Thank you for your heartening remarks. Just translate those remarks into overt, tangible performance.

Will you announce an adjournment, Mr. Clerk.

THE CLERK: Adjournment until 9:00 o'clock. All rise, please.

(Adjournment to May 14, 1974 at 9:00 o'clock a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Harry G. Foden	2836	2878	2917	2921
James William Gaynor (Resumed)		2923	2955	

EXHIBIT INDEX

Defendants	Identification	In Evidence
AB	2929	2930
AC	2932	2933

Trinity Episcopal School Corp.,
et al

vs. 71 Civ. 4315

George Romney, et al

New York, New York.
May 14, 1974 - 9:10 A.M.

(Trial resumed.)

THE COURT: Gentlemen, I am sorry to be ten minutes late, but his Honor says on his honor that the subway was 15 minutes late. If you had difficulty I can appreciate it.

Off the record.

(Discussion off the record.)

THE COURT: Let's proceed.

MR. MORRIS: We call Mrs. Gratz to the witness stand.

R O B E R T A B R A N D E S G R A T Z, called as a witness by plaintiffs, having been first duly sworn, was examined and testified as follows:

THE COURT: Mrs. Gratz, before you start, there are indications already that you have been active in connection with the subject matter of this litigation. I know that witnesses very often are full of their subject, and

they want an opportunity to tell all. This is not the forum, however, for that. This is a judicial hearing and we can only proceed according to the rules of evidence. You cannot speak as freely here as you might at a meeting although with the same sincerity and the same earnestness.

The law says that the Judge must control and a witness must be told distinctly that that witness has no power to roam over a matter. If the Judge doesn't do that he should be properly scorched.

When a question is asked of you that is capable of a yes or no answer, that is all you should answer. Say yes or no.

When you are called on for an explanation, then the field is yours, provided you come within the orbit of the purpose of the question.

Do I make myself clear?

THE WITNESS: Absolutely.

THE COURT: That will save a lot of time.

These lawyers are capable. If they want something they know how to find it.

MR. MORRIS: Your Honor, at the outset of Mrs. Gratz' testimony I wish to advise the Court that there were a number of exhibits, a total of perhaps 40 or 50

exhibits, which we have given copies of to counsel. Originally I contemplated introducing them into evidence. However at the Court's suggestion yesterday I have furnished all of those exhibits to Mrs.Gratz.

She has them right now in front of her. She will testify with respect to what the papers are and will testify to a narrative as to what the situation is, but I do not intend to clutter the record by offering all of those exhibits.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. MORRIS:

Q What is your occupation?

A I am a newspaper journalist.

Q What newspaper are you associated with?

A The New York Post.

Q How long have you been with the New York Post?

A Eleven years.

Q In connection with your activities with the New York Post what are your duties?

A I am a general assignment reporter which means anything for writing about housing to writing about rape to urb an problems, adoption, landmarks, welfare, the

pgb

whole gamut.

Q Have you done reporting on brownstones?

A I have.

Q And on urban issues?

A Yes.

Q Where did you work prior to the time you worked for the New York Post?

A I wrote for various publications including the West Side News, even though I was a full time employee as a copy girl at the New York Post before I became a reporter there.

Q Last week was it announced that you were the winner of the New York Press Club feature award?

A Yes.

Q When is that award being given to you?

A Next week.

Q Have you won any other awards as a reporter?

A Yes, three.

Q Where do you live?

A Currently at 25 Central Park West.

Q How long have you lived there?

A Since December.

Q Of what year?

A '73, I guess.

Q Where did you live before that?

A 124 West 87th Street.

Q How long did you live there?

A From January 1970 until December of 1973.

Q Was that a brownstone that you lived in?

A Yes.

Q Would you tell us when you first acquired that brownstone?

A We signed the contract to buy it in the summer of '68, closed the sale January 24, 1969.

Q When did you move into the brownstone?

A A year later, January 12, 1970.

Q Are you familiar with the West Side Urban Renewal area in general?

A Yes.

Q When did you first become familiar with that area?

A When I first moved back to New York in 1960, I moved into a small apartment at 83rd Street and Central Park West. I was a student at NYU, a Government student; I got involved in City politics, the reform movement, local clubs inthe area, and I was very well aware of the whole urban renewal program as it developed.

I was also doung some legislative research work as a student for the local Assemblyman Blumenthal and State Senator Ohrenstein.

Q When was the first time that you became familiar with the existence of the West Side Urban Renewal Plan?

A It was some time in the very early sixties. I don't recall exactly. I heard about it.

THE COURT: That's it. About the early sixties.

Q Did you familiarize yourself with the terms of the plan?

A Yes, as it was developing. I heard about it. I heard in terms of it being a rather unique concept for New York City, particularly in the wake of the reversal from the Robert Moses approach of urban renewal.

Q You mean the conservation rehabilitation and demolition and new construction concept as distinguished from the bulldozer concept?

A Right

Q In the course of your experience in the area did you make observations as to what was happening in the area during the period subsequent to 1962 when the urban renewal plan was approved?

A My recollection of what I knew and exactly when is vague, although I did happen to find old newspaper

clippings of stories that I did for the West Side News which included covering a talk by Milton Mollen to one of the local clubs explaining what was happening, talks by Herman Badillo who was then in relocation some time in that period, and I specifically remembered the main issue at that time, which was the increase of 400 low income units to 2500, and I remember that Stephen Wise was, I believe, the first house, new construction, to be built, and it was considered something of an accomplishment in public housing.

Q During this period, take the period from the time you first became associated with the West Side area in the early sixties, and the time you entered into a contract for the acquisition of your brownstone, which was in January 1969, tell us what you observed was happening in the area.

A What I observed what was happening was what -- was the kind of neighborhood that I had heard was there and why I moved there. There was a mix --

THE COURT: Excuse me.

Listen to what you just said. Listen to it. Read it.

(Answer read.)

THE COURT: That doesn't tell me anything.

You are a fact writer. Give me facts. A fact finder can be switched from one assignment to another. In that sense what can you say?

THE WITNESS: There was a total mix of people. I was then a student. I was not married. I was a working single, as we call them. Blocks away were every kind of family, black, Puerto Rican, middle class, at least in the area that I was, and I was south of the urban renewal area for quite some time.

I went to political meetings. I heard and saw the people who were speaking. It is more what I heard was going to happen then I actually saw, than what I was seeing in terms of being on the street.

Q Did you actually observe an improvement in the area during this period prior to the time you acquired your brownstone?

A Oh, yes.

Q Tell us what that improvement was that you observed.

A The main improvement was the start of new construction. As I mentioned, Stephen Wise Houses, and I don't remember which the buildings were that followed, but I heard of the ones that were integrated, the idea of integrationwithin a building appealed to me and I

saw the brownstone movement starting, and very early I heard about the little old New York group that was started by Peggy Holten some time around '62 or '63. I heard about it. I saw their circulars and heard about house tours and went on some of them.

Q Did that give rise to an interest on your part in the acquisition of a brownstone for yourself?

A It was one of many factors that gave rise to it. First of all I got married.

Q When were you married?

A In 1965. We moved to an apartment house at 10 West 81st Street which was rental when I moved in and was going co-op.

We thought that was what we wanted. Then it was a six-room apartment and we had our first child in 1967 and really felt that we were planning an expanded family and would like to think in terms of moving to an apartment with a third bedroom. The idea was either another co-op or a brownstone, as we had been hearing about by that time -- we had gone on house tours.

I had interviewed some people. I was already a reporter. I had interviewed some people in brownstones, and used to come home to my husband and say, "That's the way to live if you want to stay in New York and you can

afford to live in a middle class way."

The brownstone was an ideal way to do it. At that time prices were still fairly reasonable, we thought.

T2am

Q Did anything trigger off your interest in acquiring a brownstone? Was there any single incident that triggered that off?

A There was no single incident, and I know this is not a yes or no answer but it was really a feeling on the part of both my husband and I, particularly myself, because I had been brought up as a young child in Greenwich Village. I had lived on the streets in the city and I was determined to raise my children in the city despite the difference from the time when I was a child. I knew my kids couldn't have the freedom of travel around the way that I did starting at the age of eight, nine and ten, but nevertheless they would have something of the outdoors with a backyard, they would have a mixture in the neighborhood the way I had when I was a child in Greenwich Village, and that is what triggered it, started our thinking and started our looking and investigating.

Q Did the situation with respect to the Trinity School come to your attention?

A Ironically, yes.

THE COURT: The answer is yes.

THE WITNESS: Yes.

Q Tell us.

A I distinctly remember --

MR. LAND: Objection.

THE COURT: Yes is the answer. Next question.

Q Will you tell us in which connection that came up, arose?

A I saw an article in the New York Times, and I do not know the date, but I remember the headline was something to the effect that Trinity School decides to stay in the city. And it was the New York Times article announcing the decision that Trinity, which had been considering leaving the city, going to Riverdale, I think it was, or somewhere up in Westchester, had made the commitment to stay in the West Side Urban Renewal area, and I remember saying to myself that's one of the good omens.

THE COURT: Mrs. Gratz, if you were asked, as I am asking you now, to list the factors that caused your precipitant action with regard to a brownstone, you would say one, which you told us about, your resolution with regard to the children being brought up in the city, two, Trinity. What other factors were there that said, this is it, to use the vernacular?

THE WITNESS: I think the main third factor is that we were already in a period of time when a middle class family on a certain income had to decide which

place they were going to live, and we were not in a rent controlled apartment, we were in a co-op which we knew already we could sell at a great profit, which meant that we had an available fund source to buy a house.

My husband is a homeowner type. He knows everything from plumbing to electric.

THE COURT: That's a saving.

THE WITNESS: Yes, it was.

THE COURT: Especially these days.

THE WITNESS: We liked the idea of having a backyard and what I used to write about, calling them the suburban amenities of the barbeque, the sandbox and the garden.

I was perfectly happy to have my little square brownstone garden rather than two acres in Larchmont, which absolutely had no appeal to me. I had lived in the suburbs and hated it.

THE COURT: All right.

Q When you acquired your brownstone in January of 1969, that is, when you signed the contract, could you describe the property to us as it was at that time?

A It was a four-story brownstone, 20 foot in width, that had been upgraded about 15 years before that. So it was a Class A multiple dwelling. The owner at

the time lived on the ground floor and there were two apartments on the second floor, parlor floor, one vacant. The building was in the kind of condition -- one of the reasons it appealed to us -- we would only have to renovate the first two floors into a duplex for ourselves without having to disturb the top two floors, which included two apartments on the third floor and one rent controlled apartment on the fourth floor.

Q Did you proceed with that renovation?

A Yes, we did.

Q Did there come a time when it was completed?

A Not really.

Q You mean it continued?

A We moved in but even when we sold it there were things that were never finished.

Q You moved in, then, in January, 1970, is that correct?

A Right.

Q Now, when you moved in, would you describe the situation in the West Side Urban Renewal area at or about that time?

A Well, at that time we were unaware of a lot of the details of what was going on in the sense that new buildings had gone up and we had observed them and

everything -- people were now living in them and everyone seemed perfectly happy, but as far as being involved in the neighborhood at that point, I wasn't as closely involved in terms of local politics because of my job. It was sort of a generalized knowledge which, as soon as we moved in, we were, you know, called by people who we had known in advance before we moved into the neighborhood who immediately started asking us to get involved in local clubs. But this was prior to the spring of 1970 when CONTINUE came into existence.

Q Would you tell the Court what occurred in the spring of 1970 to which you just referred?

A The series of events as I recall them was, first, the moving in of squatters.

Q When did that occur?

A I believe it was April of 1970. I am not sure. It may have been March. I just know it was sometime in that period. I read about it in the newspaper and my first reaction was kind of positive in a way, that I had always been sympathetic to the fact that one of the things the Urban Renewal area was supposed to do was to provide decent housing for people who couldn't otherwise afford it, and I was familiar with the city bureaucracy and how slow it starts and that there had

been a lot of time lost and promises lost in terms of time in the Urban Renewal area.

Then I heard in terms of how the squatters moved in and some of the rhetoric that was beginning to build up in the neighborhood, and I was called to a meeting of people interested in hearing more about it. It was a meeting at a brownstone home on 94th Street, I believe it was, and that was my first occasion to walk up Columbus Avenue, you know, in the period of time since I had moved in the house and I remember getting up to 92nd, 193rd, 94th Street and saying to myself, "This really is terrific. This is what my end is going to be, hopefully, in the next few years."

We were at the southern end of the Urban Renewal area and the difference between the south and the north end is almost like night and day.

At any rate, at this homeowner's meeting there were a lot of feelings expressed in terms of being disturbed that there was already a call for God knows how many more units of public housing, and I was interested in what was already there and where it would lead to.

Soon after that meeting was a meeting at the Logans, at Arthur Logan's, on 88th Street, which was

basically a block association meeting but since I lived on 87th Street and already was friendly with some of the people on 88th Street I was invited to attend that meeting.

And I went into the meeting fully expecting, number one, to be informed in a way that I just expected it to happen. I knew the west side had had its local fights from time immemorial and that was one of its great appeals, I suppose, but I knew the involvement of the local legislators and I expected them to have some sort of soothing words, that they were in touch with the mayor and that City Hall knew what it was doing and HDA knew what it was doing.

The meeting turned into a rather frightening experience because I was unaware of the hostility that was shown at that meeting prior to the meeting and I remember saying to myself, you know, I don't know where I am, where I belong in this. I knew what my sympathies were when I moved in but I certainly also knew what my interests were as a mother and wife and homeowner.

The call, even at that early stage, for changing so many of the remaining sites to be developed into public housing was a little frightening as well as the meeting itself.

Q Would you describe what occurred at the meeting and approximately when the meeting took place and roughly who was present?

A The meeting was sometime in April, 1970, I think, April, and I remember Councilman Weiss was there, Assemblyman Blumenthal, I believe Fred Ohrenstein and Percy Sutton, and I remember the meeting started with trouble because Father Browne, whom I had until that time a rather pleasant relationship with, was out front ~~from~~ with pickets, and I think it was Assemblyman Blumenthal and Mr. Sutten who did not want to come into the house through the picket line. There was a lot of screaming and yelling going on outside. We didn't exactly know the particular --

MR. LAND: I wish to strike the testimony of Mr. Sutton and Mr. Blumenthal not wanting to come through the picket line.

THE COURT: Yes.

THE WITNESS: That is what they told us.

THE COURT: That is what they said at the meeting?

THE WITNESS: Yes.

THE COURT: If they said that we will let that remain.

MR. LAND: Then obviously they did come through the picket line.

THE WITNESS: If I could finish --

THE COURT: Now you started something.

THE WITNESS: If I could finish, there is a reason they did come through.

THE COURT: I am not concerned with it. They were there at the meeting, right?

THE WITNESS: They were there and they asked our permission to let Father Browne come to the meeting.

THE COURT: Mrs. Gratz, when you write an article you don't let anybody butt in with you.

THE WITNESS: No.

THE COURT: Don't you dare do that with me. Strike that remark. You are not going to get it in against what the Judge tells you. You are subject to what the Judge has to say. I may be right, I may be wrong. You shouldn't shove that in. It means nothing to me. It doesn't help me one bit with the case. In fact, you have been talking about generalities. Your language is very general. I want facts.

You were asked by the lawyer what took place at the meeting. You told us who was present. How they got there I don't care. They were there.

Do you remember what Mr. Sutton said, for instance, at that particular meeting, the essence of what he said?

THE WITNESS: The essence of what Mr. Sutton and the other legislators said, I don't remember who said what.

THE COURT: That is natural, but the essence of what they said -- you don't remember which one said it, these governmental people -- what was the essence of what was said?

THE WITNESS: There were essentially two points to what they were saying, and one was an explanation for the people outside. The explanation was the governmental delay, the city bureaucracy, promises made and promises broken.

The other essence of it was to reiterate what the Urban Renewal plan was about and what the struggle was to get from 400 units to 2500 units.

THE COURT: What was said on that score? That I don't quite understand.

THE WITNESS: It was a recapitulation of the history of the development of the Urban Renewal area and that the city had originally only planned 400 low income units, that it had taken some work to get the commitment

raised to 2500 and that there were still relocatees who had not had their promises fulfilled and, in a sense, a general recapitulation of what had happened, which was for me and others informative as some of the homeowners were unaware of what had happened before they moved into the neighborhood.

THE COURT: Yes. What comments were made at that meeting which made it, I think you said, a frightening or a troublesome meeting? What was it?

THE WITNESS: There were two points. It was not just the comments that were made, because I specifically remember Assemblyman Blumenthal saying, in response to a question that I raised in terms of what can we do about what the problems in the neighborhood as we were witnessing outside, one of the things he said was, "The first thing you can do is support an additional building being turned into public housing," the additional building being -- I don't know at that time whether it was Site 30 in mind, but it was no longer Site 4. Site 4 had with everybody's support already been, you know, changed to public housing.

And I remember asking him, "Well, last year Site 4 was changed to public housing. Now you are telling us immediately this year to support another site into

public housing. There are about, I think, ten or eleven sites to go. Is this what we are going to have every year? Every time there is a neighborhood clash, are we going to be asked to support another site?"

His response at the time, although I don't remember the words, was to some extent no, that would not happen. I began to have my doubts.

Q As a result of that meeting, was there any correspondence with City officials?

A First of all, that meeting was a block association meeting and it was only shortly after that that a number of us started to meet and the organization of CONTINUE came into existence.

Q Just hold that.

You testified that this block association meeting occurred. Was there any correspondence following the block association meeting or did that come after CONTINUE was formed?

A It was phone calls and informal conversation leading to formal organization and then correspondence.

Q Would you tell the Court what occurred with respect to the formation of CONTINUE?

A Well, as I say, a group of us got together. At that time they were mostly brownstone owners. There

were some tenants from Central Park West and a few tenants from the Columbus Avenue new building north of us. There were people from the 90s as well as in the 80s, in fact, at that time the more important -- the leaders were people from the 90s because they had been in the area longer and they had been through the early stages of the Urban Renewal area because 1970 was already late in terms of the chronology.

We felt that a voice had to be heard in terms of City Hall and city officials, housing officials, to hear that there was a middle class voice, that there were tenants and brownstone owners who did not necessarily feel that the neighborhood was on the wrong track, that there should be more public housing.

Also at that time we were very disturbed at the way the city handled or, in fact, didn't handle the squatter situation. We saw no city control of the situation, and we saw that there were a lot of empty buildings on Columbus and Amsterdam Avenues that were scheduled for demolition that made perfect objects for further move-in efforts.

Q By squatters?

A By squatters. We also were disturbed by the fact that -- which had been part of the city's treatment

of the Urban Renewal area -- that they were vacating these buildings long before the site was ready for demolition and rebuilding, and we felt they should be used by people in need of housing but we felt that the city should decide who should use them, that they should go to the people on the emergency relocate list and to the people -- then about 150,000 -- waiting for public housing units, that they should be used according to city administration, not just being taken over by whomever decided they wanted to when they saw an empty apartment.

Q As a result of that, did there come about the organization of this group called CONTINUE?

A Yes.

Q Would you tell us what happened with respect to that?

THE COURT: That is so general. That gives her a whole day to answer. Get down to what you want. What do you want on that particular thing?

Q Would you tell us when CONTINUE was formed and who were the people who formed it and what occurred at that time?

A It was approximately April of -- April-May of 1970, and the people who started it was a small group,

as I had outlined, from the various points around the neighborhood, and they were similarly inclined to express feelings that we didn't feel were being addressed to City Hall and we wanted our voice heard.

THE COURT: Who were these people? Who were some of them that you remember?

THE WITNESS: Dr. Fine was one, Dr. Logan was another.

Q Is that Arthur C. Logan?

A Arthur C. Logan.

Q He is black, isn't he?

A Yes. He is now dead, of course. Lisa Liebert was one, Lisa Levy was another, I think -- I don't remember their first name -- the Pryors were another and they were among the first brownstoners in the northern end, Peggy Holton was another and she was the founder of Little Old New York. There were other people whose names I did not know at the time and only got to know over time.

THE COURT: There is an answer. Next question.

Q Subsequent to the formation of CONTINUE, was there any correspondence with the city?

A Yes.

Q Would you tell us what it was?

THE COURT: In a general way, what did it deal with?

A We wanted to outline some feelings as to where we stood as far as what was happening in the neighborhood. We wanted them expressed to the Mayor and to the them HDA Commissioner, the West Side Urban Renewal Project Director, whatever City officials were involved.

THE COURT: What were the points? You just enumerate them. What were the points you were advancing?

THE WITNESS: The points were we represented people who had moved into the neighborhood, had paid a lot of money for our homes to be in what was promised to be a fully integrated, economically and racially integrated, neighborhood, that our understanding was that the balance was to be 2500 low income families, that there was to be full integration within the buildings that were not already designated public housing, in other words, we were all well aware of the Stephen Wise Public Housing, but we were also aware and wanted to make the point that one of the things that appealed to us in terms of the way integration was going to come about in this neighborhood was that it wasn't going to be one low income on one corner and one luxury on another corner and never the twain do meet, that the whole idea of an

integration, economically and ethnically, every way, within a building was what appealed to us, that we were sympathetic with the squatters who had no place to live, that we felt the empty tenements, whatever useable housing source there was in the Urban Renewal area should be used, that the city had failed in its policy of vacating them sometimes two years in advance of construction, that they should be used according to city administration, that squatters should not be permitted to illegally enter and take over city property unless they were accredited by the city as being in need of emergency housing. Those were the basic points.

THE COURT: All right, next question.

Q Were letters written as a reslt of that activity?

A Many.

Q What was the first letter that was written?

THE COURT: Do I need the first letter or the second letter?

MR. MORRIS: I would like her to fix the time.

THE COURT: That is different. Ask her when the first letter was written along the lines just indicated.

A In June we wrote --

THE COURT: June of '70?

THE WITNESS: June 26 we wrote to Mayor Lindsay.

Q Were there other letters at that time?

A At the same time we wrote a letter --

THE COURT: Please. Were there other letters?

THE WITNESS: Yes.

Q Tell us what they were.

A To community residents.

THE COURT: Were they all written to various sources that CONTINUE regarded as the proper target for action and that those letters announced in one form or another the overall complaint that you enumerated for me just a minute ago?

THE WITNESS: Yes.

THE COURT: That's it.

THE WITNESS: Yes.

THE COURT: That's it.

THE WITNESS: Yes.

THE COURT: You were active inthat connection. Whoever you thought would lend an ear or could possibly help CONTINUE, you addressed yourself in that direction?

THE WITNESS: Yes, as well as to community residents.

THE COURT: Of course you wanted united support?

THE WITNESS: Yes.

Q How long did that continue, the activity you have described?

A In terms of letter writing?

Q Beginnin in June, activities, meetings, what else occurred?

A It was only the beginning of an endless series of meetings.

Q Over what period of time would you say these meetings occurred? Can you give me the range?

A In terms of my involvement, from the spring of 1970 and even beyond the point in which I left in December of 1973.

THE COURT: Would you call yourself extremely

active as a homeowner in that area? WEre you extremely active during that whole period of time?

THE WITNESS: Yes.

THE COURT: To advance the objectives you have already stated?

THE WITNESS: Yes.

Q Were there other meetings that occurred subsequent to that meeting that you described where CONTINUE was formed?

A Yes.

Q When did that occur?

A Meetings of CONTINUE or neighborhood meetings or --

Q Whatever realted --

THE COURT: I am only trying to find out of what value is it to give me specific dates? She says she was active. They met with frequency. These were the overall objectives.

I would be far more interested in knowing what this witness has to say with regard to her personal observations. After all, we are allowing testimony as to an organization's meetings, but for what purpose? How far should we go with that? Of what real value is it other than to indicate that certain things were happening that

necessitated all these meetings?

What were those things that were happening? According to her personal observations? That is another proposition. I would like to spend time on that.

Q Mrs.Gratz, would you respond to that, please?

A As I saw it, I think there were two basic things that were happening, both of which disturbed me and both of which the meetings were directed at.

One was the internal kind of events.

THE COURT: What does that mean?

THE WITNESS: In the sense that there was a lot of tearing apart of the community, groups, hostility.

THE COURT: As a fact finder what did you find were the bases of this hostility? What was it, color, race, what?

THE WITNESS: Everything I think.

THE COURT: That doesn't tell me anything.

THE WITNESS: Let me try to explain because I think it is very hard for anybody to really pinpoint this.

THE COURT: In all factual situations -- and that has been my life for 40 years -- I have been a fact finder, as a Judge,and I know what it means to find facts, in a patent case, in this case, in a case involving somebody's head chopped off in an accident. I know what

facts are. I have been living with them all my life.

The point I am trying to make, what areas were saturated with certain factual material you can testify to under oath? Sure, other factors were present but they took a secondary or tertiary role. What were the primary factors that you as a fact finder observed?

THE WITNESS: For one thing there were attempts early in this period of the summer of 1970 to get groups together. There were the squatter groups, Strycker's Bay, CONTINUE, and other groups. It was my feeling, as it was the feeling of a lot of other leaders of CONTINUE and certainly Dr. Logan, who had been through different kinds of battles before, that when you have a situation like this you get people together and talk about common problems.

I really thought this was possible. I believed in this.

I remember a meeting, and I cannot remember the date, although I know it was tape-recorded by STrycker's Bay, so maybe they would have it. I remember going to a meeting. It was in a store front on Columbus Avenue and Jerry Fine, Dr. Logan, and myself were representing CONTINUE and it was our understanding there would be like two or three representatives from different organizations.

THE COURT: In order to find out --

THE WITNESS: To explore common -- there was basically a common enemy, and it was, I must say the first of many instances that scared the daylights out of me because I remember getting up and trying to articulate my feelings why are we all screaming at each other when the villian is the City who has done us all wrong?

I can't outline for you the details of what happened. I know I remember being yelled at for being an outsider, for being rich, for being a brownstoner to the point I could not believe -- I didn't come in as any crusading something or other, but I knew where I was at and I was not what was being told to me that I was.

I was very discouraged because I really believed that if you get people together you could talk.

We left the meeting and I remember being so frightened and seeing so many faces of people who I passed every day in the street that I literally was on the verge of asking for police protection.

That was one of the many meetings in which, if I tried to raise my voice, I was emotionally unable to speak. In fact, as we went on with our efforts I pulled out of trying to go to community meetings because I was emotionally incapable of handling it after a while, and

stuck to trying to write whatever letters we had to write to City officials because we felt we could get nowhere in terms of working it out within the community.

We had even gone -- Jerry and Arthur and I and myabe Rollie Karlan from CONTINUE, had met with executive board members of Strycker's Bay, including Father Farrelly and Sandy Thomas and Dorothy Rosenbloom, and that was in the fall of 1970, and I must say this was prompted by the encouragement of some of our legislatures who were trying to, you know, see if there was not some way of bringing everyone together.

I remember we agreed on seven points. It was sort of like a Geneva Peace Treaty kind of meeting. It was like a beginning, and we looked for the areas we could agree on.

THE COURT: That is what I would like to get to. What were the points?

THE WITNESS: I can find them.

THE COURT: What was uppermost?

THE WITNESS: I remember one of the points was -- I think it was the first point -- was calling on the City to advertise in all appropriate publications throughout the City to let it be known to any former resident of the Urban Renewal area who had been dislocated that a new building

was going up and that they were entitled to priority.

THE COURT: You told us about being called names, that you were a brownstoner and you were wealthy and so forth. Those things you recall come from people who feel they have a grievance. What were their grievances?

THE WITNESS: Their grievances were, and very understandingly, that they did not have decent housing. Many of them had been pushed out of brownstones similar to mine in circumstances that were unthinkable by many of us, particularly south of the urban renewal area in the lower eighties and high seventies where buyers would come in and hire dope addicts and vandalists to scare people out.

MR. LAND: Objection to that testimony right there

THE COURT: Hold it a minute.

What do you predicate that last statement on.

THE WITNESS: That was what they told us.

THE COURT: Who is "they"?

THE WITNESS: Some of the people at these meetings who told us where they had moved from and where they had been pushed out.

THE COURT: I will let it stand for what it is worth. It is admissible under the cases that we have examined. Its weight is another proposition, but it is

admissible.

Go ahead.

THE WITNESS: There were also people who would say to us, "We have been waiting ten years for a new apartment; we can't get into the buildings that are up; the only buildings we can get into would be public housing buildings, where are we to live?"

That was the question. That was a perfectly sympathetic question.

THE COURT: Anything else you remember? The common word was "gripe." What were their gripes other than what you told us?

THE WITNESS: That they had been shifted around the City from one relocation to another relocation.

THE COURT: They wanted permanency of residence?

THE WITNESS: They wanted decent housing.

THE COURT: Anything else?

THE WITNESS: I think at the time one of the "gripes," if you want to call it that, was the fact that no one knew where the money was going to come from to finish the urban renewal area as it was supposed to be finished, that the new buildings going up were more expensive than the original people had been promised, and, my God, it goes on from that.

THE COURT: You have answered that. There has been a long answer there. I don't think you need to go over that ground.

What other points do you wish to advance?

Q Did there come a time when you began to observe changes in the neighborhood itself?

A Well --

THE COURT: Yes or no.

A Yes.

THE COURT: What did you observe?

Q Tell us what the changes were that you observed.

A Well, for one thing, buildings that were vacant in my end, 87th, 88th Street end, particularly on Columbus, and one brownstone on my block -- a couple of brownstones on my block became occupied. Mostly in the beginning it was by squatters. Later --

MR. DOUW: In the beginning?

THE WITNESS: In terms of the spring of 1970.

After a period of time when pressure was brought on the City to use the vacant apartments for relocatees and, you know, people from their own work load, the City used these facilities as relocation resources. They were fully occupied, tenantcy often changing. I would witness, myself, people moving in and out, sometimes in the

middle of the night. There was a high turnover.

There was not very good protection in terms of the buildings. I remember complaining constantly to the local urban renewal office: "For God sakes, have locks put on the front doors for the people inside as well as people outside," because they became favorite hiding places for petty street crime things.

I remember seeing a taxicab being broken into. Some people on the block started to chase the guys after they had pulled out the money box and they ran into the corner building, and as far as we know probably up the roof and down another building and out.

The basement storefront, sub-basement, below the street, there was a stor on our corner that was ripped open and was being used for drugs. In fact, I even -- one day there were -- and I saw these same men coming back on the block a couple of times -- I saw envelopes being passed and people going down into the basement, and I saw this once or twice before I found out from the local policeman, of all people, that this was a favorite shooting alley, and I again called the urban renewal office and I said, "If the police know this is going on why aren't you doing anything?"

The playground on my block, "Play lot" I guess

you would call it, it was a vacant sit e that had been turned into something of a novel playground several years by the SeeBees, I guess, and there was an old fire engine and a lot of equipment for kids to play on, it became --

THE COURT: How long did that last?

THE WITNESS: By the time I moved in it was no longer fit for kids. I went in there a couple of times with my kids. There was broken glass and crap games going on. The liquor bottles, and whatever, was such that I just didn't use it any more.

My own problems on the block were of a petty nature but were very discouraging. I went in with all sorts of great hopes about brightening up the place with trees and shrubs and flowers and the kind of thing you do to help spruce up a block, and no sooner was something plant ed than it was stolen.

We built a special cage like two structures in the front of our house, under our wall, a brick wall where you could put bikes in and put a couple of bars in front and have it accessible, and as soon as my husband put the bars on, the first day we locked up the bikes our tenant came down and found people breaking the bars and taking the bikes out.

Fortunately they were stopped in time before the

bikes were removed.

We subsequently locked up our bikes in this wrought iron case structure which was impenetrable without a welding iron or something like that.

The bikes were a constant source of, you know, people trying to get through the bars to the point where when they could not get the bike out and they very ingenuously unscrewed the front wheel and the brake system and whatever parts they could take and removed it through the bars.

We had instances which I think was what really disturbed me most of all. Our kids would play on the street and this was one of the things I had moved into the neighborhood for, and when I first moved in there was sort of a nice group of, I called them, "our street kids," kids from all the houses that used to play together. They were older than mine. But it is what I figured would happen when my kids got that age. There were one or two that used to sort of take a maternal attitude towards my kids so I would let them ride their bikes out front.

One day my younger daughter was knocked off her bike and I came down, came out, I happened to be home and came running out, and a couple of kids started, you know, yelling at her and my older daughter, about being rich kids and being private school kids, and just -- it was an

act of anger -- and this happened a number of times, even with me out front. I would sort of garden in the front and let the kids go, and sometimes I would be out of sight so other kids didn't see me, and I would hear things like this being yelled at my children.

And on another occasion my older daughter was knocked down when she was playing with a ball and the ball was taken away. Some kids said "You goddam rich kid."

It got to the point where I really felt I cannot let my kids play out on the street.

That was like the first of several things that began to disillusion me.

THE COURT: About what time was that? That was the first of several things that began to disillusion you?

THE WITNESS: That was probably close to the spring already of '71.

THE COURT: Be good enough to tell me, summarize, what were the things that began to disillusion you. Summarize them without developing them.

THE WITNESS: Well, for one thing, and I have to say this didn't disillusion me although everyone expected it should, in January of 1971 I was mugged. I landed in the hospital with a fractured skull, and even wrote about it

in the New York Post, because it was my therapy. I had to write.

THE COURT: Where was that?

THE WITNESS: On the corner of 86th and Columbus.

THE COURT: Now go ahead to the items you say --

THE WITNESS: At that point I felt it had nothing to do with the neighborhood and I was determined to stay. I was not determined to run to Larchmont because I had been mugged.

MR. LAND: Due to the fact that she said it had nothing to do with the neighborhood, I ask that the testimony be stricken.

THE COURT: Motion is denied. I will not regard it as having any bearing on the issue. It is not an established fact, in other words, as the witness herself says. We will leave it stand.

Suppose we take a short recess.

(Recess.)

THE COURT: Proceed, Mr. Morris.

Q You were describing conditions as you observed them from your own personal experiences in the area during this period.

Continue.

A On my own particular block there were other instances that occurred that frightened me. A woman was assaulted on my block at five o'clock in the afternoon when a lot of us --

MR. LAND: Objection, your Honor.

THE COURT: What do you base that on?

THE WITNESS: I witnessed it.

THE COURT: I will let it stand.

A There was a purse snatching in front of my house that I witnessed.

Suffice it to say that there were street instances that made me realize --

THE COURT: No, no. What were the street instances? You saw an assault. That is somethin g, that is a fact.

Now you are making some generalities. I would rather have specifics.

THE WITNESS: There was a purse snatching I witnesses.

There was another evening in which I, in fact two evenings, in which I went to the front window after hearing screams to see the aftermath of -- one was an attempted purse snatching and the other was a successful purse snatching.

THE COURT: What else?

A There was a continuing use on the corner of this playground for not just the crap games and the drinking, but it also became a favorite music practice place through all hours of the night that frequently led to street fights.

There was a fire started in a Volkswagen bus parked right in front of my house. I don't remember whether the police or firemen told me --

MR. DOUW: May I ask for dates, your Honor.

THE WITNESS: That was in the summers of '71, '72, and to some extent '73.

The Volkswagen bus that was burned was, I believe, early summer of '73. Police or firemen told me it was started by some kind of handmade bottle, inflammable liquid.

In the summer of '73 one of the favorite games apparently of some kids on the block was setting fire to garbage cans and I replaced three in the course of one summer since they were plastic.

It was a constant source of concern.

A car belonging to one of my tenants and frequently parked in front of our house, which was one of the little foreign-made stationwagons that had the little window in the front on the side, which a lot of cars don't

have any more, was broken several times. One time it was smashed, and when my husband and I found it, when we came home that night we alerted our tenant in fact that his car had been broken into. This had been one of many instances to the point where this tenant of ours no longer even locked the window. He used to leave it open so if anyone wanted to get into the car he could, since he left nothing in it, but it was broken anyway.

THE COURT: When was this?

THE WITNESS: That was also the summer of '73.

THE COURT: Proceed.

A In the spring of '73 I, as well as my housekeeper who we used to alternate walking my kids to school, had several unpleasant experiences on the corner.

THE COURT: What does that mean ?

THE WITNESS: One occurred with a man whom I sort of had gotten accustomed to seeing on the corner day and evening. I didn't know him but we used to smile hello at each other.

One day I came home from work early and fortunately had not picked up my children from school and he was either drunk or on dope or something and was stumbling all over the place and sort of lunged at me. I don't know what was on his mind but fortunately, as soon as he reached me,

there were people down the block, friends of mine, who saw me and came running up to me and were able to just push him away.

There was an instance where my husband was parking the car last summer on the block and it was rather a tight space and there were people in another car just behind with plenty of space behind them, and they saw my husband struggling to get into the parking space and refused to, you know, back up the car to give us a little more room. He squeezed in with a little tap on the fender of this other car. The guy came running up to us, "I'll take you to court. I'll sue you for all you are worth. I'll get your fancy brownstone away from you."

I sort of pulled my husband away and just went into the house.

Things like this were daily occurrences.

Q Did these series of instances that you have just described to the Court lead to a situation with respect to your continuance in the area?

A Yes. On two levels.

Q What occurred?

A For one thing by this time last year I was totally discouraged in terms of where the City was going with the urban renewalarea. I personally, and as a leader

of CONTINUE, had written every letter imaginable, had gone to every meeting possible, had seen everyone from -- had seen two deputy mayors come and go and appealing to both. Had seen HDA administrators come and go, appealing to them. Had picketed Gracie Mansion, had done everything that I thought we could to try to convey the fact that the middle class, at least in that neighborhood, was a very tenuous sort of group.

I had only been living there now three years and I had seen some of the original homeowners and original tenants leave.

I remember soon after I moved in, the first guy I met who was selling a house, I said, "You are so foolish, you have to stay and fight and make sure that it becomes what we planned. Don't sell, don't leave for the suburbs."

I remember saying that to a number of people, the Priors whom I mentioned earlier, who moved, and tenants who were moving from Central Park West to the East side and suddenly I also was at the point where I could not go to another community meeting. I was emotionally -- I cannot go to a planning board meeting, a Strycker's Bay meeting. I went to some Strycker's Bay meeting and I never opened my mouth. I was a nervous wreck five days

in advance and at least five days afterwards. I was very discourac . I felt that I wanted to be a part of the community that I have lived in and I didn't feel that I could communicate and I thought I in many ways, more than other people, I was active with, still had a reasonable relationship with everyone from Father Farrelly, Sandra thomas and Dorothy, but it had come to the point where there was no way of bringing groups together.

And then I saw the plans for the area, I realized the political commitments were such that Site 30 and Site 4 would go ahead,and I saw 236 funding coming in and the public thinking it was some moderate middle income housing program but HDA officials were telling me that the same people who qualified for 236 apartments qualified for public housing.

MR. GOLD: Objectinn, your Honor.

THE COURT: I will let it stand.

Who so told you?

THE WITNESS: There were, I forget the man, but the man who preceded Margo Fox as West Side UrbanRenewal project director.

THE COURT: If you can think of his name we would like to have it.

THE WITNESS: Aleesio?

THE COURT: Can anyone suggest a name?

FATHER FARRELLY: Raymund Ocasio.

THE WITNESS: He had told me, in fact it was following a Strycker'sBay meeting at St.Gregory's one night, that the same people qualified.

I had seen Columbus House and Westwood, I had seen Leader House, 236, I had seen -- I had talked to City officials --

MR. DOUW: I move to strike as to Columbus House unless we have a foundation as to her knowledge, those three buildings.

THE COURT: What is your knowledge, your personal knowledge, with regard to those three buildings?

THE WITNESS: My personal knowledge goes as far as the figures that we were able to ascertain both from the City and from sources who were involved in the renting.

THE COURT: As to the tenantcy, the nature of the tenantcy in those buildings?

THE WITNESS: Yes.

THE COURT: You concluded from that what?

THE WITNESS: Well, I concluded from the tenanting of those buildings and the subsequent meetings that were held with City officials who seemed to feel that it was a one-time occurrence, that it would not happen again,

that at least after those two houses --

THE COURT: Which two?

THE WITNESS: Columbus and Westwood, that subsequent builings would be rented and tenanted according to the 30-70 mix that it was supposed to have.

THE COURT: About when was that, as you best recall, approximately?

THE WITNESS: I guess that was somewhere around the summer and fall of '71.

THE COURT: You say you got assurances, or what you regarded as assurances from the City officials to the effect that after those two buildings, Westwood and Columbus were occupied by low income tenants, that would be the end of such type of occupancy and that the 70-30 ratio would be restored with regard to other undertakings.

THE WITNESS: Yes. I also had meetings and what I thought were assurances from local legislators, Assemblyman Blumenthal, Councilman Weiss, and State Senator Ohrenstein, who had reported to the community, all of you, that they had had meetings with all sorts of City officials from relocation to Social Services to HDA Housing, that things would be different.

THE COURT: In what way differen t? That's

it.

THE WITNESS: That Social Services would not be renting -- the understanding we were given was that if welfare tenants were to be placed in new buildings they would be included within the 30 per cent low income, not above the 30 per cent. In other words, the Department of Social Services was not going to rent 236 apartments and increase the ratio of the building.

MR.DOUW: May I ask, is this what she was told or what she was given to understand? There is a difference.

THE COURT: Of course.

Was this what you were told?

THE WITNESS: I was told that by West Side legislators who had meetings with the City officials.

THE COURT: Proceed.

Despite that what did you live to see? You saw what happen?

THE WITNESS: I saw the City proceeding with plans for two more all public housing.

THE COURT: To wit.

THE WITNESS: Site 40 and Site 30, and making plans to use 236 funding for as much of the remainder of the neighborhood as possible . Included in that was the site at my corner at Amsterdam and 87th Street. It is now

under construction. It is to have 236 funding.

At this point I certainly felt -- and who agreed it may be open to debate -- but I certainly made the judgment that any further 236 building that was built in that area by my definition and by many other definitions was all going to be low income.

Between that and the fact that I felt that personally the instances I had had, I was no longer relaxed in living in a community in which I wanted to be a part and not just a resident of. And there was the fact that these buildings would be built, I was beginning to see what would happen particularly at the south end where I was living, you were going to have low income high risers on the corner and you were going to have a mix of conservation brownstones, small apartment houses in between, and that is not the neighborhood I had moved into or had thought I had moved into.

I also have to add the personal note that it has now been -- this is last summer -- so it had been three years in which my life had been divided in three parts, one was community, one was husband and children, and one was a full time job, and that was not the life that I thought I should be leading. One of those things had to go.

THE COURT: I wanted to ask you you what yo

do in your spare time.

All right.

Next question.

Q Did there come a time t hen when you made a decision with respect to your brownstone?

THE COURT: That is evident. She moved.

A A year ago, spring.

Q You made the decision. Did you offer your house for sale?

A We made the decision to sell.

Q When?

A About this time last year. This is May? Yes.

The question was where we were going to move to. There was not too much question because we wanted to stay on the West Side. We decided we wanted to go back to apartment house living and it was whether we would go rental or co-op.

We put our house, I guess, on the market in maybe it was the end of May, early June of '73.

Q Were you able to sell it right away?

A No.

Q Would you tell us what happened with respect to that?

A Well, we were told first of all that we would

never get the kind of price --

MR. LAND: Objection, your Honor.

THE COURT: Sustained.

Q What occurred?

A We went to a real estate agent. We told the real estate agent that we would like to ask $175,000 for our house, that at $175,000 that was already a loss in terms of our investment which was close to $190,000.

He told us it was unreal, the market was -- a house like ours was not selling at anywhere near that price, and we said we wanted to try.

We got maybe a handful of lookers and certainly no offers, and we went away for summer vacation and came back the end of August, early September, and talked to more agents, listed the house with more people, and at this point we were asking $160,000.

We told the agents that we wanted to net $150,000.

We had a lot of people look. Agents were not showing too well. They claimed they were not selling houses like ours at our price and we didn't believe it. So we put our own ads in the Sunday Times, had lots of calls; we even put an ad in the Wall Street Journal thinking of young lawyers and bankers and all that kind of people who

liked to buy brownstones.

A lot of people came and loved the house and asked about the neighborhood and my husband and I had conspired to tell people that the reason we were selling was for personal family reasons, hoping they would think we were getting divorced, so they would not ask us about, you know, the neighborhood, questions we didn't want to answer.

We finally -- we didn't sell in the fall and people came and went, and the same thing was said over and over. No one even offered us $100,000. They just said, "It's a beautiful house but, you know, I drove around the neighborhood, and I'm sorry."

We put an ad in the New York Magazine and were swamped, and the interesting thing was that some people started to look who were from the West Side, which I had felt was hopeful because I figured they could not be totally unknowing of what was happening. They were West Siders. It was not as if they were coming from another area of the country or another area of the city and not being aware of what life was like on the West Side. I really had mixed feelings about selling that house.

For one thing, not only -- it is not just the fact we put all the goddam money in. It was more than that. My husband and I did things with our own hands. It

was going to be our permanent residence to raise our children. We painted, we carpentered, we gardened, we constructed, and did all sorts of things ourselves, and I could not even show the house. My husband had to show it because I was very upset about selling it. I had mixed feelings because I felt maybe ten years from now I would want to live back in this house, maybe 10 years from now things will be the way they were meant, but right now I have a seven-year old daughter and a four-year old daughter and I have work and I am not home with my kids, so the next ten years maybe someone else could live in this house and not feel the way I did.

I really hoped for a buyer who wanted the same things that we wanted in that community.

So I was encouraged when West Side people came from West End Avenue, from Central Park West. Eventually the end -- we took an apartment anyway. An apartment became available where we now live, in September, and we wanted it very badly and decided against taking it at that time because it was crazy. How could we assume a rent and not have our house sold when we had absolutely no savings left in the bank. Everything was in the house, so we let the apartment go by and in October it was still vacant.

We just decided we were going to risk it, and we offered our landlord to be less money because he was not having an easy time renting the apartment and he took it and we gambled.

We moved in in December 7th and our house was not sold until some time in late January, I believe, a young couple from West End Avenue who -- the wife's father owned a brownstone in the urban renewal area, so I was very relieved they offered -- they were interested in buying, because I didn't have to tell them anything, I didn't feel they were getting into anything they didn't know about, made an offer and we wound up selling for something less than $150,000 on March 20.

Take 4am

Q How much of a loss did you sustain on the sale?

A In absolute dollars, close to $50,000.

Q $50,000.

MR. MORRIS: That's all.

THE COURT: Cross examine.

CROSS EXAMINATION

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BY MR. LAND:

Q Mrs. Gratz, I take it from your testimony that you were active in the formation of CONTINUE, is that not correct?

A Yes.

Q Did you hold an office?

A I did.

Q What was that office?

A Co-chairman.

Q Who was the other co-chairman?

A Dr. Arthur Logan and Dr. Jerome Fine.

Q And you three people were the chief officers of CONTINUE, is that correct?

A Yes.

Q That is since its inception in the spring of 1970, is that correct?

A Yes.

Q Have you resigned from CONTINUE?

A No.

Q Do you still have an office?

A No.

Q When were you no longer co-chairman of CONTINUE?

A I think it was about a year ago. I am still on the executive board but we -- at some point we organized in the sense that Dr. Fine became the only chairman and I at some point earlier than last year felt that I shouldn't take as active a visible leadership position because in some way I felt it was not -- I did not feel comfortable since I was a newspaper reporter and happened to be writing at various times on housing issues.

Q I presume that CONTINUE has a number of newsletters it publishes, is that correct?

A Yes.

Q As to those newsletters that are published, does not your name appear as one of the co-chairman?

A Yes.

Q Is it fair to say that over the period of the last three years, three and a half years CONTINUE has perhaps issued maybe 150 or 200 such newsletters?

A I doubt that much.

Q Something about 100, then?

A Newsletters, no. We had a thing called The Urbangram which was probably less than a dozen. As far as letters and even letters to community residents, there were several dozen, but I don't know -- I mean I don't know whether it reaches 100.

Q Okay. You testified that you attended a number of meetings, public meetings, in which various groups were present, is that correct?

A Yes.

Q And those groups did not hold the same views CONTINUE held, is that correct?

A Yes.

Q At those meetings you spoke out in favor of what CONTINUE thought was a proper goal for the West Side Urban Renewal area?

A Yes.

Q And you were identified as a member of CONTINUE when you made your statement at those meetings, is that correct?

A Yes.

Q Did CONTINUE ever adopt a position that the squatters should be evicted from the buildings they occupied? Did you or did you not, yes or no?

A I believe yes.

Q Was that position that the City of New York should evict the squatters?

A Yes, to the best of my recollection.

Q When you moved into your building at 124 West 87th Street -- when you purchased it in January of 1970, were there persons living in the building at that time?

A I purchaed it -- I closed on the purchase in '69. It was renovated and we moved into it in 1970.

Q When you acquired your building, were there tenants in the building?

A Yes.

Q How many?

A The owner -- I have to count. Four plus the owner and one tenant who was moving. He was vacating an apartment.

Q So a total of six families, right, six separate units?

A Right.

Q After you renovated the brownstone, how many families did it hold? Just your own family or did you rent it to someone else?

A No, we have three tenants, four tenants.

Q How much did you pay for the brownstone?

A Purchase price was $65,000.

Q What major improvements did you make in the brownstone?

A New plumbing, new electric, complete new stairway, new stoop and a total gutting and rebuilding of the first floors plus improvements in the apartments, the existing apartments, above.

Q You say you completely gutted the first two floors?

A Two floors, but not the top two.

Q And you replaced all the electricity in the brownstone, the electric wires?

A Yes.

Q And you replaced all the plumbing in the brownstone?

A Yes, and the stairs.

Q All four flights?

A Yes.

Q And you replaced the stoop out front, you said?

A When we purchased the house, the stoop had been removed years before. We put back a new stoop so the entrance was on the second floor instead of the first.

Q And you paid $65,000 for a home which required this type of work to make it habitable, is that correct?

A Yes.

Q When you decided to sell your home, were all your apartments currently tenanted?

A Yes.

Q And can you give me the range of the rents you charge your tenants?

A I would be happy to. On the third floor we have two sort of conventional one-room brownstone apartments, half floor each. One rents for $240, the only freemarket apartment. Another is a rent stabilized apartment at $174. On the top floor, 90 percent of the top floor of the brownstone is a rent controlled apartment for which the rent is $90. And there is a single rc on the top floor that used to be an old SRO and has no kitchen, it has a bathroom, and is rented to a young student for $75.

Q Looking at a map, I was led to believe your brownstone was on the south side of 87th Street. Is that not correct?

A Yes.

Q In fact, that is not really even part of the West Side Urban Renewal area, is that correct?

A Yes.

Q You were aware of that when you purchased it, were you not?

A Yes.

Q That your particular block would not be the subject of any intensive federal, city or state redevelopment, is that correct?

A No, only the south side of our block.

Q That is what I am saying.

A Yes.

Q You testified that in 1970, when you purchased your brownstone, you thought the price of brownstones were reasonable, is that correct?

A In 1968 they were.

Q In '68 they were reasonable.

What exactly was the purchase price that was paid to you for the purchase of your brownstone?

A I think it was -- the exact figures I can't remember because I always think in terms of what we got after we paid the agent's fee. which was something like $142,500. I think that is what we netted after the agent's fee. The final selling price may have been $150,000 or it may have been a little above or a little below.

Q Who was the broker that you had?

A Austin Haldenstein.

Q When you moved into the West Side Urban Renewal area, did you know how many low income housing -- when you moved into 87th Street, did you know then how many low income housing projects had been completed in the West Side Urban Renewal area?

A No.

Q I take it from your testimony that you have no dissatisfaction with 2500 low income families living in the West Side Urban Renewal area in new construction?

A None whatsoever.

Q Do you know how many reside there now?

A No, I don't.

Q I believe you testified that you were in favor of permitting illegal squatters to reside in city-owned buildings provided the city accredited that such squatters were in need of emergency housing, is that not correct?

A Yes.

Q Isn't it rather self-evident that when one moves into such a building that tney are in need of emergency housing?

A Yes, but what we said at the time was that the

priority for using that housing should be the relocatees who were moved from those houses in the first place, that it shouldn't just be anybody, in fact, in the beginning there were squatters who were not necessarily in need of housing. There was some doubt as to whether some of the people who moved in were what we would agree would be on the emergency housing roll.

Q Do you know that as a fact?

A As an absolute fact, no.

Q You do know, however, that some of the squatters were in fact relocatees of the area itself?

A Yes, I do know that some of them were.

Q You testified that since 1960, between 1960 and 1970, you lived at 83rd Street and Central Park West, is that not correct?

A No. I lived at 83rd and Central Park West from 1960 to 1965 and from 1965 until the time we moved into our brownstone and during its renovation we were living at 15 West 81st Street.

Q Did you ever consider sending your children to public schools in the West Side Urban Renewal area?

A For a while.

Q You decided to send them to a private school instead?

A Yes.

Q Your children never did attend public schools in the West Side Urban Renewal area?

A No.

Q I believe you testified that currently there are a lot of buildings on Columbus Avenue and Amsterdam Avenue which are currently occupied by squatters, is that correct?

A I don't know if they are now squatters or whether they are squatters and relocatees. I have lost track in terms of who is in the buildings and what the city has reported on.

Q When did you lose track?

A Oh, sometime in the -- well, put it this way. I never knew for sure because no one actually ever took a survey, which was one of the things we asked the city to do and never saw evidence that it had been done.

Q When did you lose track?

A I lost track of a lot of things in the past year, psychologically on purpose.

Q Why have you elected to stay in the West Side area of Manhattan notwithstanding the experiences about which you have just testified?

A Because I still think that the west side is

the one area of New York City that has the kind of life and lack of sterility that I want to live in. I like the multiplicity of experiences on the west side even if it includes mugging.

Q Yes, Mrs. Gratz, multiplicity of experiences which has a flavor in the community tends to be crap games in a park, fires in Volkswagen buses, drunks appearing to molest you, seeing women being assaulted; is that what you mean by your view of an interesting life, is that what you are talking about?

A That is not what I am living with now.

Q You are not living with that now?

A No, I am not passing that every day on my way in and out of my house.

Q Other than those instances you testified about, what is it that makes the west side for you a desirable place to live?

A I like the variety of cultural opportunities on the west side, I like going to movies and museums on the west side, I like shopping in a variety of stores on the west side, I like the fact that it's not as crowded as a high-rise area like the east side, I prefer low density in terms of building construction, I prefer mixed housing instead of just all brand new on First,

Second and Third Avenue, I prefer anything that was built before 1950, and most of that that remains is on the west side. I happen to be a architecture buff, among other things, and the west side is pretty terrific for that.

Q Does that include the West Side Urban Renewal area?

A No, no, not for architecture.

Q You being an architectural buff, give me your opinion of the architecture within the West Side Urban Renewal area?

A Pretty varied. Everything from Turin House, which sort of looks almost jail-like with its little cages, to Jefferson Towers, which I think is a rather handsome Mitchell-Lama integrated building.

Q Turin House is a cooperative apartment house building, is it not?

A Yes. My architectural preferences really pre-date anything that was built in the West Side Urban Renewal area other than brownstones. I said prior to 1950. Contemporary architecture is not something that I am as much a buff on as old architecture.

Q You don't care for it?

A No.

Q You testified that at one point you and your husband were trying to park your car but had difficulty with the car behind you, that your husband bumped the other car and apparently the driver of the car which was bumped said something to the effect that he would sue you and take your brownstone away, is that not correct?

A Yes.

Q How did that man know you owned a brownstone?

A I don't know. I guess he knew I lived on the block and knew where I lived.

Q Did you recognize that man?

A No.

Q Did you ever see him before?

A I may have. I didn't recognize him at the time.

Q Are you a rich person?

A I don't think so.

Q You testified a number of people called you a rich person.

A Yes.

Q Do you know why they would call you that?

A Yes. Because I think there is an impression anyone who owns and lives in a brownstone is rich even though the combined income between yourself and your

husband is $35,000.

Q What does your husband do?

A A metal fabricator.

Q You and your husband are making $35,000 a year for the last -- combined income for the last five years between 1970 and 1973 of $35,000 a year, is that not correct?

A Yes.

Q You testified that you paid $65,000 for your brownstone, did you not?

A Yes.

Q You also testified that you had $190,000 in the brownstone, did you not?

A Yes.

Q Subtracting those two figures, it means that you put into your brownstone $125,000, is that not correct?

A Yes.

Q If your combined income for those years was less than $35,000, where did you get the money for those improvements?

MR. MORRIS: I object to that. We are going far afield. I don't see what her financial condition has to do with the issues in this case.

A I don't mind --

THE COURT: Please. That aggrevates a judge if he has any red blood corpuscles. He makes an objection. I have to say why I am overruling it. It goes to the credibility of the witness. The position taken by the examiner is that the witness has not kept within the confines of absolute truth or accuracies and whether he succeeds or not I don't know, but he has a right to make that inquiry. Objection overruled.

You will have to answer, Mrs. Gratz.

A For one thing, we had a co-op that we purchased at $11,000, or somewhere around there, and sold for $65,000, and my husband had a small trust fund of about $20,000 that had been wisely invested in the stock market.

THE COURT: Next question.

Q That only gives us $85,000.

THE COURT: The breadth and length of the examination on that point is within the discretion of the judge. I think we can't go into an accounting procedure.

You understand the purpose of the question.

THE WITNESS: I know.

THE COURT: It is to find out where the funds came from. Are there any other general sources other than what you have mentioned?

THE WITNESS: We had a mortgage on the purchase other than that.

THE COURT: On what, a purchase of the brownstone?

THE WITNESS: Yes.

THE COURT: How much was the mortgage?

THE WITNESS: The mortgage originally was $35,000.

Q So when you paid $65,000 you put in, of necessity, $30,000 cash, is that not correct?

A Yes.

THE COURT: All right, there it is.

Q On several occasions during direct examination you testified you did not care to live in Larchmont. Did you ever live in Larchmont?

A My in-laws live in Larchmont.

THE COURT: Please answer the question.

THE WITNESS: No.

THE COURT: Next questions.

MR. LAND: No further questions.

THE COURT: All right. Mr. Gold.

CROSS EXAMINATION

BY MR. GOLD:

Q Mr. Gratz, I think you said you had first heard

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about the Urban Renewal area sometime in 1962, is that correct?

A In the early 60s.

Q And at that time you were living at 124 West 87th Street, is that correct?

A No, at that time I was living at 227 West 83rd Street.

Q Okay. Where in terms of the Urban Renewal area is that address?

A It's four blocks south.

Q Is that on Columbus?

A It's just off Central Park West.

Q And you had heard that there was an increase from 400 low income units to a higher amount, is that correct?

A Yes, I did hear that.

Q Where did you hear that?

A Specifically, I don't remember where I heard it. All I can recall is that over a long period of time in those early years I was hearing about it through my involvement in the community and local clubs. I was doing some reporting for the West Side News on what was developing in the Urban Renewal area, and later, as a Post reporter, I did some housing stories, including

an interview with Father Browne, and I remember talking to him at great length about the history and the struggle.

Q That was later on. You indicated you had been with the Post eleven years, I think, is that correct? That would take us back to '63. So you interviewed Father Browne a little later on.

But when you first began to hear of it, there was no specific document that you could relate to, is there?

A No. It was a city program that I knew of but I didn't know what the paper was.

Q Did you ever hear of a document called an Urban Renewal Plan?

A Yes.

Q Have you ever read any renewal plan for the WestSide Urban Renewal area?

A Yes.

Q Is that the original plan you read?

A Well, I just remember brochures that were called the Urban -- West Side Urban Renewal Plan that were given to me in the site office by Mr. Lauria, I believe it was.

Q Mrs. Gratz, I am not referring to brochures. I am referring to a document which is called an Urban

Renewal Plan. Did you read such a document at any time since 1962? Yes or no.

A The reason I don't know is I don't know if what I read was the plan.

Q I will help you.

A It was called the West Side Urban Renewal Plan. If it was the official document, I don't know.

That book I did not read.

Q I did not show it to you yet.

THE COURT: What is the exhibit number?

MR. GOLD: I refer to Plaintiffs' Exhibit 14, only that portion which represents the Urban Renewal plan.

Q Just that portion of the book which represents an Urban Renewal plan as annexed to Plaintiffs' Exhibit 14, does that look like something you have ever read?

A No.

Q You said you also heard about Stephen Wise being built, is that correct? Do you know how many units there are in Stephen Wise Houses?

A I don't remember.

THE COURT: Mrs. Gratz, we have great respect for our official court reporters. In fact, I think that song was very popular years ago, we really dedicate it to

them. If you turn away, who can I look to. We are very dependent on them. He is unhappy because you are not answering. I will not have him get ulcers becuase you don't answer.

Q You mentioned that you spoke to a Mr. Lauria. Was he somebody employed by the City of New York?

A Yes.

Q Did you speak to Mr. Lauria?

A Yes.

Q And where did you speak to Mr. Lauria?

A At the site office on Columbus Avenue.

Q And when did that occur?

A Prior to our purchase in -- our signing a contract to purchase in 1968, because we were first interested and inquired about the availability of the city-owned brownstones that we had heard about.

Q When prior to 1968?

A Either early '68, January, winter of '68, or maybe late '69.

Q Did you go there with your husband?

A I think on one occasion with my husband and one occasion without him.

Q And you had some discussion with Mr. Lauria?

A Yes.

Q Could you tell me the nature of that discussion? What did you say, what did Mr. Lauria say, in substance?

A In substance, it was on two levels, one, the general nature of the Urban Renewal project, and, two, the availability of the city-owned brownstones.

Q And in connection with the general nature of the Urban Renewal project, what specifically did you speak to Mr. Lauria about?

A I remember him showing me the map and giving me --

Q The map. Which map?

A A map on the wall of the Urban Renewal area, 20 blocks, showing me -- and I don't remember at this point which the buildings were, but what was completed, what was under construction, target dates for certain sites. At that time I believe, but I don't remember for certain, that he indicated to us that fully taxpaying housing was still scheduled. For the southern most end on the corner of Columbus and 87th Street it was originally supposed to be a fully taxpaying building.

Q Did you discuss with him the renovation of a brownstone?

A Yes.

Q Did you discuss financing for purposes of acquiring the brownstone?

A Yes.

Q And did you discuss specification required by the city in the event you bought a brownstone within the Urban Renewal area?

A Yes.

Q Did you speak to anyone else in that site office prior to your purchasing the brownstone?

A There was another gentleman whose name I don't recall who worked with Mr. Lauria.

Q Did you speak with him?

A Yes.

Q On how many occasions?

A I don't remember offhand. Maybe three, four, maybe even six. On one of the occasions I was interviewing them for a story I was doing on the area. So it was probably close to six times in that office.

Q You indicated that when you began to hear about the area you heard about new construction, about integration and about a brownstone movement, is that correct?

A I heard about the new construction and the total area before I really heard about the brownstone

movement. It wasn't really a movement at that time.

Q Was the total area, in your understanding, 1962 vintage, was that an integrated area?

A The total area? No.

Q The West Side Urban Renewal area, 20 square blocks.

A As it existed when the project began? No.

Q It was not. And was it mostly white?

A There were pockets of white and there were pockets of black and Puerto Rican.

Q I see. But not what you would consider an integrated area?

A No.

Q You have also said that no single incident triggered your purchase of brownstone but there were several motivations. I want to see if I have them right.

The family was growing and you were looking for more space and you related to the city and city life and particularly the west side, you liked the small back-yard and you didn't like the suburbs; is that generally correct?

A Yes.

Q Is there anything else that motivated you?

A I think that's pretty much it. Also the idea

of the kind of space that you could have and what you could do with it in terms of a brownstone as opposed to a one-level apartment.

Q You were aware of the fact when you went into a brownstone on 87th Street, were you not, that you were adjacent to the last stage of the Urban Renewal process?

A Yes.

Q And that it might take a good period of time, perhaps, until there was completion in that stage?

A Well, in those days they were talking about the early 1970s.

Q For completion. In those days meaning 1967, '68?

A Yes.

Q In connection with the arch ecture, Mrs. Gratz, by the way, did you walk through the area in 1967 and 1968 along Columbus Avenue?

A Yes.

Q Up north to 96th Street?

A Yes.

Q And did you see high-rise buildings?

A Yes.

Q And those buildings I think you indicated to Mr. Land were not particularly to your liking architecturally?

A No. The one I think I indicated was ugly was one of the newest ones. Some of the buildings in the upper end I think are very nice architecturally.

Q But you prefer low density, a low profile area?

A Yes.

Q And yet you bought the brownstone on 87th Street which was adjacent to this so-called canyon.

A When I spoke of low density I was comparing it to the east side where it is totally high-rise as opposed to buildings with space around them, plazas and space in between the block, which is what you have in the Urban Renewal area. You have the valley and the hill effect.

Q In other words, the high-rise is acceptable if there are open space set backs?

A Yes.

Q I sort of get the feeling from what you have said here that your primary problem was related to 87th Street and those incidents that occurred on 87th Street, is that pretty much correct?

A No, I would say it's half the picture.

Q Half the picture. What was the other half?

A The total community. I didn't separate the two.

Q What was it in the total community that bothered you?

A That what was originally planned to happen in terms of the mix of people was not happening as far as I could see, that plans for the completion of the Urban Renewal area would be in an excessive amount of public housing on two levels, number one, in terms of what I felt the community could take as opposed to communities all over the city where the debate is raging as to how much, you know -- what is a balance, and that, number two, I felt that it was going way beyond the commitment the city had made in terms of how many low income units were required to fulfill its obligation to relocatees.

Q I see. What did you understand that commitment to be, Mrs. Gratz?

A The commitment was in the number of 2500.

Q And that was a bottom line number, as you understood it?

A That was the number, as I understood. However, when I got involved in the community and started looking for figures, I remember putting together the available city and Strycker's Bay figures and coming up with a projection of somewhere between 3,000 and 3,500 low income

units if the project were to be completed as it was already proceeding, with 30 percent low income per building, and it seemed to me any additional low income buildings would only inflate those figures and certainly would not provide the economic integration within the building that was the unique goal of the Urban Renewal area in terms of the whole country.

Q First of all, was the 30 percent low income percentage used in all the Mitchell-Lamas in the area?

A No, and, in fact, it wasn't the early figure. That was a later figure.

Q So in the earlier buildings, is it not so that there is substantially less than 30 percent of the units that are low income?

A Yes.

Q Do you know which buildings those are, by the way?

A No, only roughly.

Q And do you know when the 70/30, so to speak, mix came into being?

A Specifically, no.

Q Approximately.

THE COURT: If you know.

THE WITNESS: I don't.

THE COURT: You first became aware of it about when?

THE WITNESS: I believe after I purchased the house. I think even then they were still talking in terms of 20 percent per building.

THE COURT: All right.

Q In fact, many buildings were built with less than 30 percent?

A Oh, yes.

Q Is there something to that percentage in your mind in terms of a mix which makes a building with a 70/30 breakdown a better building that a building with a 60/40 breakdown, for example?

A There are a couple of things. First of all, for whatever the reason, it has been shown in study after study that middle class people are not necessarily going to remain in the building if they are not the majority.

Number two, it was something that I always believed and, in fact, corroborated to my own satisfaction by personally canvassing a public housing building on the corner of 88th and Amsterdam and talking to people who lived there who said to me they would prefer to live in one of the 70/30 buildings because that means it's a real middle class building and middle class buildings

get services in this city, the middle class gets services, the poor don't, and if the poor live in the middle class building they get the services, too.

And there was the reality that if you are going to try to hold middle class people in an area where their option is either to live here or maybe leave town, that for whatever the reasons are it may not take much to have them move.

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Q Is that true about the middle class in the West Side?

A I could not answer that.

Q Do you think it is true about middle class people whether they reside in Flatbush, inthe West Side, or in Crown Heights?

A Yes.

Q Same thing?

A I think it is true of middle class people in the urban environment who have the choice of where to live.

Q You don't think the West Side for example might be more resistant to that kind of thing happening?

A Yes, up to a certain point.

Q That point is 30 per cent?

A Yes.

(Recess.)

THE COURT: Proceed, Mr. Gold.

Q Do you know the number, the total number, of units including the redevelopment parcels, the brownstone rehabs, and the conservation units that are contemplated in the completed West Side Urban Renewal area?

A I no longer do.

THE COURT: When you last had this almost throbbing concern with what was going on, that was about

a year ago, what then was the thought you entertained on that score?

A It is not that I didn't know, it is that the figures have totally left my head and I have not tried to remember them.

THE COURT: Now I understand you.

Q In your experience as a newspaper reporter, particularly, I think you have written on housing did you become aware in the latter part of the 1960s that housing funds were in short supply?

A Yes.

Q Did you also become aware or were you aware that construction costs were ever increasing?

A Yes.

Q Did you also become aware of an increase in financing costs?

A Yes.

Q Would you say that the increased cost of construction, the increase in interest rates or financing costs, contributed to some extent to the City's use of 236 Federal funding?

A Absolutely. In fact 236 funding, when I first heard about it, was something I thought was terrific. I understood it as a mortgage interest subsidy and I

thought -- I still feel basically it is a terrific tool. The trouble with it is the income limitation. It does not spread high enough.

Q You don't think this particular Federal program is focused on those middle income people that need that kind of help?

A Absolutely not. Not for New York City anyway.

THE COURT: Your answer is that you don't think so and you do think so. Straighten out your answer.

Q Do you think that the 236 program focuses on that group which you feel need housing in New York City?

A Yes, but it is only a small group. It should be a larger group.

Q In other words the income limitations in your view should be higher?

A Yes. In New York City it should be considerably higher.

Q To reach a higher level middle income persons, so to speak?

A Yes, or even a low income person.

Q Or even low income?

A Yes. I am not sure that someone earning $18,000 in New York City with four or five kids is middle income.

Q So the use of 236 really doesn't bother you

because it gets things built?

A As a tool it is a good one.

Q If it was the only tool available would you prefer the use of that tool or leaving the area undeveloped?

A I would prefer the use of that tool with some very careful tenanting in renting of the building.

Q In connection with tenanting you spoke about Westwood, Columbus, and Lea[illegible] House.

A Yes.

Q Your complaint was, I think, that those buildings were tenanted outside of the leased public housing units with low income people, is that correct?

A Yes.

Q And were those people in some cases receiving welfare assistance?

A Yes.

Q Were those people former site occupants?

A We did not know.

Q Assuming, Mrs. Gratz, that they were former site occupants, some of whom were receiving welfare assistance, would it be your position personally that those people should be given those units?

A When Columbus and Westwood were completed and ~~that cured~~, we were told that was one of the reasons why

they were given those apartments. We were prepared, and certainly I was prepared, to understand, so to speak, even though I felt there was a little too much we were given to understand. But then we were led to believe that this would not happen again, and that Leader House would be different and Social Services would not be renting for welfare tenants above the 30 per cent, and yet it did happen again.

Q You have said throughout your testimony that you have always been in favor of the return of those people displaced by the urban renewal process, correct?

A Yes.

Q That is kind of a priority that runs through this whole West Side Urban Renewal Plan, is it not?

A More now than in the beginning.

Q I don't follow what you mean.

A One of the points we used to raise was that we had learned through -- I don't remember whether it was through City or Strycker's Bay or other sources in the community -- that some of the low income tenants that had been placed in the older new buildings, the less than 30 per cent buildings,were not even relocatees, and we used to complain to the City that if they were so concerned with the relocatees why didn't they get in there first.

Q But you have no problems with relocatees?

A None whatsoever.

Q So here we have three buildings that are completed and a good many relocatees from the West Side are there. The Department of Social Services says it can pay the 236 rental. What is your objection to exercising that priority?

A If it exceeds the 30 per cent of the low income proportion in what is to be a 30-70 building, you are going to lose the remaining proportion of middle class apartments.

Q You felt the 30-70 mix was more important than the former site occupants?

A No. I can't accept that. It was not an either/or situation. I felt we were being put into a position of them saying "If you can't let them go in here, you want them onthe street," and I can't accept that. I didn't feel that way. I felt this was a big city and there were a lot of buildings being built.

I saw Waterside going up with 7 per cent low income. I saw plans for Manhattan Landing with 4 or 6 per cent, and I kept asking: Why on the West Side are we expected to be accepting 40, 50, 60 or more per cent? Why are we different? Because the West Side has accepted its fair share of burdens in this city more than any other

community, and I felt we were being taken advantage of.

Q The squatters, Mrs. Gratz, the main problem with the squatters seemed to be that you would have liked them to be validated by the city in some way, that they were actually entitled to housing or needed housing, correct?

A Yes, but at the point I wanted the city to make sure that the people who were taking apartments needed housing and ifthe city was going to use those empty buildings for relocation purposes that they make sure they were qualified relocatees going into them, that it should not be just someone walking off the streets deciding maybe this apartment is better than the one they are moving out of.

Q If they were either relocatees or they come from unsafe quarters somewhere or emergency vacates, those were acceptable people?

A Yes.

Q Regardless of the fact that they were low income?

A Yes.

Q Those were temporary occupants anyway?

A They were supposed to be.

Q They are still temporary, are they not?

A Yes.

Q Eventually when the sites redeveloped or were

ready to be redeveloped, those people would be removed?

A Supposed to be.

Q In fact on Site 30 were there not squatters at one point?

A Yes.

Q When the site was cleared were those squatters removed?

A Yes.

Q Did there come a time when the City did actually do a survey and made certifications as to the families who were in the buildings?

A I believe they did something. I don't remember exactly the nature of what it was. They were supposed to take a survey which I think they may have taken. They were supposed to draw leases with the tenants and they were supposed to be on a month to month basis.

Q Did that happen?

A I don't know what parts of that actually happened. I don't kn ow if they actually signed --

THE COURT: That is the answer.

Next question.

Q Do you know whether the city provided heat, hot water, and basic services to the people occupying these buildings you are talking about?

A To the best of what I saw, yes.

Q But you had a little problem with the maintenance?

A Yes.

Q You said you appealed to two Deputy Mayors. Was that Mr. Aurelio and Mr. Hamilton?

A Yes.

Q The HDA administrators, who were they?

A Walsh and Starr, and whoever came before.

Q Mr. Kerr?

A Yes. I forgot him, as well as lower echelon HDA people.

Q CONTINUE had a sort of continuing dialogue?

A Not a dialogue. We had a continuing series of letters.

Q What is a dialogue, is it not?

A If you are assuming the letters were read and listened to and heard, yes.

Q Did youget responses?

A No.

Q Never?

A Some.

Q And the purpose of CONTINUE was to communicate the position of a particular interest group?

A Yes.

Q And that interest group was basically brownstone owners?

A No, only in the beginning.

Q Only in the beginning?

A Yes.

Q Was there a CONTINUE group prior to 1970?

A There was apparently -- we did not make up the acronym. It was used for a group of brownstoners that was never really much of an organization. It was a letterhead early in the sixties. It had been defunct for years.

Q How do you know it was much of an organization?

A The people who used it told us they used it more for the letterhead of a group of people, but not in any sense the organization that CONTINUE got to be.

Q The Site 4 conversion into public housing didn't bother you or the CONTINUE group, did it?

A It bothered some. It didn't bother me because I felt the explanation for it was understandable. The explanation was that the large apartments that were promised in previous buildings had not been built through all sorts of bureaucratic or housing errors and there were a lot of relocatees with sizable families where there would be no room for in the buildings as planned.

Q So Site 4 would take care of that with larger apartments?

A Yes.

Q That was way up on 97th and Columbus a long distance from where you were?

A Yes, but I understood about the fact that it was combined with the school and we did have public housing down where I was. We had public housing at 88th and Amsterdam.

Q One of your beefs, so to speak, was that the public housing was sort of concentrated down in the middle and there was little or none up at the northern end?

A I would not say that it was an either/or situation. What we saw happening was that building was going on in the middle end and where they had built buildings with less than 20 per cent that happened to be in the north end because that was Stage 1, and what they had planned, for finishing off the middle and finishing off Stage 3 which was the south end was a continuing upswing in terms of the percentage of low income.

Q Other than Site 30 what was planned for low income?

A It is not what was planned, but what was there. There was STephen Wise down the block from Site 30 and

there was Goddard Towers.

Q Goddard Towers? Is that low income?

A As far as I know it is. There was also talk in terms of replanning and the city proposing the idea of renovating rather than rebuilding on Sites 45 and 46 which is Columbus Avenue and 87th, 88th Streets, with the idea of renovating for low income tenants rather than rebuilding on a 70-30 basis.

Q So those were the various reasons you felt Site 4 -- anything else in low income should really go up?

A No. As a matter of fact one of the earliest proposals of CONTINUE Before Site 30 was approved was that if as the city w-s saying they had a relocatee list they could not accommodate in the buildings as planned, we proposed that the very southernmost site on Columbus Avenue and 87th Street, my corner, be held for a public housing site if after the next few buildings were built on a 70-30 basis that relocatee list was not accommodated; so as far as my end, we were perfectly willing and in fact proposing to save one if not two sites to the end of the project because the constant theme was we won't have room to fulfill our commitments and we were proposing that if that is true, and the figures as we used to look at them didn't seem to say that, we were saying if that is true and if that is the

real goal then let's reserve two sites for whatever is left on the commitments that have not been made.

Q Did you ever appear at either the City Planning Commission or at the Board of EStimate hearing in connection with the Site 30 designation as low income housing?

A Not in testimony.

Q You didn't make a statement? Any particular reason why you didn't?

A Yes.

Q What was that?

A Because, as I said, I tried to make my public statem ents as limited as possible in terms of the community because I happened to be a reporter working in the field.

THE COURT: You had been writing on that very subject matter?

THE WITNESS: Yes.

THE COURT: Next question.

Q Would you say that the youngsters who thought you were rich, or your children were rich, might have thought so not so much because of the actual income you had but because you owned a brownstone which was rather expensive in cost?

A Absol tely.

MR. GOLD: I have nothing further.

THE COURT: Mr. Douw.

CROSS-EXAMINATION

BY MR. DOUW:

Q You mentioned that in the meeting you had as a member of CONTINUE, meeting with the city officials and other people, that there was a time in 1971 when you discussed with people about Columbus Manor and Westwood?

A Yes.

Q And that the nature of tenantcy in those buildings had exceeded the 30 per cent allocation, is that correct?

A Yes.

Q Who other than city officials did you discuss that subject matter with?

A Members of our organization had contact with people involved in the renting of the building.

Q What did they learn as far as you know on contacting those people?

A To the best of my recollection, the understanding given to us, was that somewhere upwards of 80 per cent of the combined two buildings were low income combining people on partial public assistance as well as full public assistance.

Q What did the city officials tell you on that

same score?

A They disputed those figures.

Q What did they say?

A I think they acknowledged something upwards of 40 or 50 per cent, but nowhere near where we were at.

Q In weighing the conflicting information you received, which did you find more believable?

A Well, when I found out that the city was not counting people on partial public assistance, I figured that both figures were right, but they were different definitions.

Q Did the city confirm they were not counting people on partial public assistance?

A Not in writing.

Q Did they --

A All these things, when you are talking about confirmation in black, white, yes or no, I think there is very little you will find on paper or recorded discussions.

Q It is not quite responsive to my question.

I asked you if City officials confirmed to you orally or otherwise whether they included in their figures people on partial public assistance.

A You mean that they didn't -- I don't understand the question.

Q If the city officials told you that the figures about welfare people in Columbus and Westwood were something less than what other people told you, did the city officials confirm that they were not including people on partial assistance?

A Yes.

Q They did so?

A Yes.

Q Do you consider a person on partial public assistance to be a low income person?

A Yes. I would assume they will not get it.

Q Were you involved in preparing in writing the news letters URBANGRAMS?

A Indirectly. The URBANGRAMS I did not write. I wrote a lot of letters or wrote with other people a lot of the letters. The URBANGRAMS were mostly offered by Lee Murphy together with Jerry Fine.

Q Is Lee Murphy a man or woman?

A Man.

Q Who is he?

A He is a resident on 88th Street.

Q You mentioned you attended a demonstration at Gracie Mansion at one time. When was that?

A October 25 of 1970.

Q Did you organize that demonstration?

A Yes.

Q How many people attended?

A Between 250 and 300.

Q Was there press coverage?

A Yes.

Q WEre you responsible for having press coverage?

A I don't expect so. We sent letters to members of the press and I talked to some people I knew, but it was not people that I knew who covered.

Q But you sent letters to the press announcing the demonstrations and you talked personally to various press people about this?

A They were the ones that didn't come. There was no coverage in the Post.

MR. DOUW: No further questions.

THE COURT: Mr. Morris, does anything occur to you by way of redirect?

MR. MORRIS: I have one or two questions.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q Mrs.Gratz, the north side of your block, the block you had your brownstone on, was in the West Side Urban Renewal area?

A Yes.

Q So directly across the street from your brownstone was the boundary of the West Side Urban Renewal area?

A Yes.

Q Do the 236 income limits, as you understand them, preclude low or middle income tenants such as policemen, fireman, civil service workers, and so forth, and restrict the occupancy of those buildings to low income families?

MR. GOLD: I object unless she knows the income of what those various groups are.

THE COURT: Let's see what her answer is first. If it doesn't measure up in quality and factual content we can strike it.

What do you have to say on that score?

A I say yes, because it eliminates anybody basically over the income of twelve or $14,000 with certain, you know, deductions and a lot of kids and all that.

Q In Leader House, in your experience, were tenants taken from other areas, other urban renewal sites, who were not relocatees in the West Side Urban Renewal area?

MR. LAND: Objection.

THE COURT: It is leading, but you already put it to her.

Objection overruled.

What is your answer?

MR. LAND: A second objection. No foundation --

THE COURT: What do you base it on?

THE WITNESS: I, as an officer of CONTINUE, received a copy of a departmental memorandum sent out by the Department of Relocation and Management Serv ices which said in reference to Leader House that apartments were available to people in other relocation urban renewal sites who were not West Side relocatees.

MR. MORRIS: That is all.

MR. GOLD: I have a question.

RECROSS-EXAMINATION

BY MR. GOLD:

Q In connection with the memo on Leader House, you just said you received. Do you know if that policy was effectuated?

A I don't.

Q In connection with the 236 income limitations, are you aware of how those are arrived at?

A No. I know there is a complicated formula or something. I only know the broad outlines. When I asked city officials what is the outside income limit that someone can live there and they give me an answer, I don't ask what the formula is.

Q YOu don't inquqire further; is that what you are saying?

A Yes.

Q Are you cognizant of the fact that those income limitations are changing every so often?

A Yes. They went up --

THE COURT: The answer is yes.

A They went up once that I know of.

Q As a member of CONTINUE and as a newspaper reporter reporting on urban matters, would you say it would be appropriate to keep abreast of what those income limitations were, particularly since you were so interested in that particular phase?

A Yes. I have a rough idea of what they are.

Q Twelve to $14,000?

A I believe that is what they are still at.

Q That would preclude sanitation, police, and fire people from living in those buildings, is that correct?

A I am not sure.

MR. GOLD: Thank you.

THE COURT: Does anything e[illegible] occur to you?

Thank you, Madam.

That completes the testimony of the witness.

(Witness excused.)

MR. MORRIS: The plaintiffs rest, subject of course --

THE COURT: -- the completion of certain witnesses who have already appeared and who are to return for further examinations. You will consider all of that as you address yourselves to your motion to dismiss.

I made reference to memos yesterday. There is no sense in repeating that, except to say that the memos must include every point that you wish the Court to consider.

I want to be helpful to you in having you cut it short but any of you who are inclined to expand, the Court would certainly like to have the benefit of your study.

Please proceed.

MR. LAND: For the record, your Honor, on behalf of the defendants we do move to dismiss on the ground plaintiffs have not shown a prima facie case.

MR. GOLD: On behalf of the City defendants, the various City defendants, I so move to dismiss on the grounds plaintiff has not made out a prima facie case.

MR. DOUW: I join in the motion.

THE COURT: Decision is reserved on the motion just placed upon the record.

Please proceed with your proof.

MR. LAND: We call Mr. John B. Maylott.

J O H N B. M A Y L O T T, called as a witness by the Government, having been first duly sworn, was examined and testified as follows:

THE COURT: I say this to all witnesses and with a fair degree of success.

Would you please remember that you are a witness. You are a sworn witness. This is no place to attempt to convert a judicial forum into a political one. I won't permit it. Over my dead body.

I am a Judge. I have bee long enough a Judge to insist that a witness remember that the moment he starts to become an advocate his testimony is pretty near worthless to me because he has not got an objective attitude. He has his own limited view and that is it. He wants to sell it.

You are supposed to just answer the question that is just put to you. If it is capable of a yes or no answer that is all you say. If you are asked for an explanation then you can enter a much wider answer.

Do you understand what I am trying to say? Please observe that.

DIRECT EXAMINATION

BY MR. LAND:

Q With whom are you currently employed?

A I am employed by the Department of Housing and Urban Development on special assignment to Connecticut Housing Finance Authority.

Q Prior to your employment for special assignment what was your position?

A I was the area office director for the Department of Housing and Urban Development in New York City.

Q From what period?

A 1970 to 1973, April 30.

Q Prior to 1970, when you became a director of the New York area office of HUD, what was your position?

A In 1961 until 1970 I was first the assistant director for underwriting and then the director for the multi-family housing insuring office of the Federal Housing Administration.

Q Prior to 1961 what was your occupation?

A From 1957 to 1961, I was the director for the Federal Housing Administration Insuring Office in Connecticut.

Q During the period from 1961 through 1970, when you were the assistant director of underwriting and the director of multifamily FHA mortgages, could you briefly explain your duties?

A As the assistant director for underwriting I

was responsible as supervisor of a group of technicians to come up with a determination as to whether or not mortgage insurance the FHA was asked to place on various types of property represented a reasonable risk.

Q During that period from 1961 through 1970 what geographic region were you in charge of?

A From 1961 to 1970 it was the New York metropolitan area, New York City; two counties in Long Island, and four counties in the north and northwest.

Q You used the letters FHA. Could you tell us what FHA means?

A That is the Federal Housing Administration created by Congress. And its basic function was at that time insuring mortgages that are granted by other lendors, not lending money but insuring the mortgages so that if in fact there was a foreclosure the Federal Government would reimburse the lender and take the property.

Q My understanding is that if an individual wants to go into a housing market, to buy a home or building, he would get financing from a bank or insurance company and in turn the Federal Government would guarantee that loan on behalf of the borrower, and that would be the FHA insured loan?

A In substance, yes.

Q If the borrower would default in paying the bank then the bank or insurance company would look to the Federal Government to make good on the loan commitment, is that correct?

A That's right.

MR. MORRIS: Your Honor, Mr. Land is testifying now and this is direct examination not cross, as he is used to during this trial.

THE COURT: The question is a leading question clearly, but on a subject that can be brought out by spending another ten minutes. No, it is all right. Such questions will be allowed by either side.

Q As the director of the New York area office of HUD from 1970 to 1973, could you briefly tell us what your responsibilities were?

A I was responsible for the administration of all of the various programs of the Department of Housing and Urban Development for the Eastern part of New York State, that included urban renewal, open space, water and sewer, relocation, many facets, and including both the financing of public housing and the utilization of the insurance program formerly known as FHA.

The only limitation in the territory was that

the FHA type of mortgage activity of the area office that time was still limited to the metropolitan area that existed before the HUD area office was formed.

Q During the period from 1961 through 1973, were you, as an official of the Department of Housing and Urban Development, involved at all with the West Side Urban Renewal area?

A Yes.

Q Could you tell us when HUD first became involved with the West Side Urban Renewal area, and briefly describe the type of financial commitments it made?

A I can't tell you exactly when HUD -- it was not HUD. I can't tell you exactly because it was prior to my arrival in New York City.

I can tell you when my involvement started: Practially as soon as I got here, which was in November of 1961 and, really, it was more extensive in '62 and from then on. This was at the time when the West Side Urban Renewal was part of the program of the Housing and Redevelopment Board. I believe that Milton Mollen was the chairman of the board at that time and we were in discussion with the board and staff members of the board as to the initiation of the rehabilitation program in the West Side Urban Renewal area.

Q Tell us what the Federal agency first did in terms of financial commitment to the West Side Urban Renewal area.

A I think I will have to ask you to clarify that. You are talking about the Federal Housing Administration.

Q The Federal Government as an interested party in the West Side Urban Renewal area.

A On an overall basis, under the urban renewal administration -- at the time I am not sure whether the contract had been entered into or not, but they were in the process of developing the urban renewal plan which required approval by the Urban Renewal Administration at that time from which evolved the various activities that followed, obviously the initiation of the plan as developed by the city itself. It is not something done by the Department. The Department concurs if it finds that the plans meet the objectives of the Department.

Q Can you tell us what some of the first commitments of Federal funds or money were?

A The first ones that I know of, I am sure there were some other commitments, but the ones I am aware of, those that we were involved with in the insuring of mortgages were on two brownstones.

I know one of the pioneer brownstone rehabers

was Dr. Logan, who was at one time the head of CONTINUE.

Q You mentioned that there were two FHA insured mortgages on brownstones.

Prior to that time what type of financial commitment was given by the Federal Government to this area?

A I can't answer that question because I don't know.

THE COURT: Mr. Maylott is correct in insisting that you talk to him about what he knows. You are asking him questions which make him account for the activity of everybody engaged in that activity for the Federal Government.

6am

Q You described two FHA mortgages on brownstones in the West Side Urban Renewal area. Were there more than two?

A Yes. That was really the beginning of what I consider a relatively sensitive rehabilitation program which was jointly -- of course, we were the insurers but it was actually developed and promoted by the housing of the Housing and Redevelopment Board with various lending institutions to the city furnishing the mortgages which we insured. I believe it was quite successful.

Q In terms of FHA-insured mortgages for brownstones?

A Yes.

Q Could you tell us what the philosophy behind such insurance of brownstones was in this area?

A Yes. The mortgages were insured under a special section of the Housing Act which allowed taking perhaps a little higher risk. It was under Section 220, which was a mortgage insurance program designed specifically for Urban Renewal areas. These mortgages were placed under this section of the act. The liberalization was that we were entitled -- this is the FHA -- was entitled to assume that the Urban Renewal plan as generally adopted would be carried out and, therefore, we could then insure

mortgages for up to 30 years, 25 years or 30 years, on homes and up to 40 years on projects, multi-family projects.

Q Do you have an approximate number of how many brownstones received FHA-insured mortgages in the West Side Urban Renewal area?

A I don't have an exact number but I would say there must be approximately 200.

Q Thank you. In addition to the FHA-insured mortgages on brownstones, what other financial commitments did you participate in for the West Side Urban Renewal area?

A Well, we furnished the financing for Turin House that was referred to in previous house which was financed under Section 221(d)(3) below market interest rates and in this case, although the construction laon was furnished by a private lender, the federal government furnished the permanent mortgage at a lower interest than was the normal market rate at that time.

Other than that, and since that time, since the inception of 236, which has also been referred to, the department has provided subsidy both under Section 236, under rent supplement, for many of the other housing projects there which were built under state or city funds but not insured by HUD.

THE COURT: Gentlemen, I have a flash here. The changing rooms that we have been going through since the trial began may come to a close so that will you make a note tomorrow we make one more move. I hope it's the last for this case. It will be in Courtroom [illegible]. We start tomorrow in that room.

MR. MORRIS: What floor, Judge?

THE COURT: Ground floor, Room 36.

Let the record show that the increase in the number of appointments of judicial personnel here recently, and the building being 35, 36 years old, has caused a great strain on the trial days for judges. I am sorry, gentlemen, but that's it. I hope we stay in 36 for the rest of the trial.

BY MR. LAND:

Q Mr. Maylott, you mentioned federal interest subsidy. These subsidies were for what type of building being constructed in the West Side Urban Renewal area?

A The Section 236 interest subsidy was, as I said earlier, applied primarily to the multi-family projects which I presume are mostly high-rise that were constructed by the city or the state or the Urban Development Corporation. I am not sure if they were involved or not. They were mostly all high-rise structures.

Q In addition to the interest subsidies, were there any rent subsidies in which the federal government participated?

A Yes. In most cases there was an average on about 30 percent of the units additionally subsidized by what we call rent supplement. We couldn't -- if it were feasible and if the funds were available subsidies as high as 40 percent, but the general policy was to subsidize 20 percent.

Q You mentioned an interim program with respect to Turin House, Section 221(d)(3). Is that something new that came into the program?

A No. The low market interest rate program preceded the interest subsidy program. The 236 replaced it. The federal government felt that that was a better way of financing housing.

Q Was the site on which the Turn -- what is the Turin House, do you know?

A It is a cooperative.

Q Was the site on which the Turin House was located always scheduled for 221(d)(3) subsidy?

A No, it couldn't have been, because (d)(3) only came into existence after 1961. I think, although I am not sure, that the site probably was designated for

for low rent housing, what used to be called public housing.

Q During the period from 1961 through the late 60s and I guess even the early 70s, would it be fair to say the federal government has had a substantial financial commitment to all phases of development in the West Side Urban Renewal area?

A Yes, I believe it certainly has. Although I can't quote the figures, but --

THE COURT: This is the one time you departed. The answer is yes.

Next question.

Q And from your testimony, that would be the FHA-insured mortgages on brownstones?

A Yes.

Q The interest subsidies for a number of the high-rise apartment buildings?

A Yes.

Q The special interest subsidies of the Turin House cooperative building?

A Yes.

Q And the rent supplements for other buildings?

A Yes.

MR. MORRIS: That was not an interest subsidy on 221(d)(3). That was a direct mortgage loan.

THE COURT: Is that right?

THE WITNESS: That's correct.

MR. LAND: I am sorry. I misunderstood you.

THE COURT: All right, it is straightened out.

Q When your department considers the use of federal funds or other federal benefits for an area, what is your primary concern?

A Well, the primary concern is that the plan -- we are talking about an Urban Renewal area -- that the plan is consummated within the concepts of which it was designed and that the federal funds as well as the other funds that are applied to a development of this plan are going to be workable, feasible and serve the purpose for which the plan was designed.

Q When you use the word "feasible", what do you mean by that?

A In terms of housing, for instance, that's where I use the term more frequently than anywhere else, I am talking really about the production of housing that will be financially viable. I was talking about a reasonable risk earlier. Where we could see, foresee, in terms of the cost of the production of the housing and the mortgage that would be required to finance it that

the rents would be available on a continuing basis to support the mortgage and that it would not go into foreclosure.

THE COURT: All right.

Q In other words, --

THE COURT: I understand that.

MR. LAND: Good. Some of the stuff gets very technical.

THE COURT: I don't see the need for it, really.

Q In connection with the FHA-insured mortgages for brownstones, were there any people within the City of New York, city employees, who assisted the federal government in making application for brownstones?

A Yes.

Q Who were they?

A I can't tell you all their names, but William Hunter was one of the prime movers in terms of the field office, Joseph Lauria was another one and there were several other people.

Q All right. You testified that one of the primary concerns of your agency was to insure that the particular plan is carried out and in this case we are dealing with the West Side Urban Renewal plan.

Could you tell us whether the West Side Urban

Renewal plan originally called for a mix of low, middle and luxury housing?

A Yes.

Q And can you tell us what happened to the luxury housing?

A Well, the luxury housing I guess -- sometimes luxury housing is just high cost housing. Obviously it was affected by the substantial increase in construction costs and therefore apparently would not be feasible at the rent that would have to be obtained without any type of benefit whatsoever in those locations.

Q Is the current non-marketability of luxury housing in the West Side Urban Renewal area peculiar to the West Side Urban Renewal area?

A No.

Q Is it a general phenomenon in the City of New York?

A Not completely general.

Q Could you elaborate on that a little bit?

A Yes.

Q Please do.

A There are certain areas in New York, for instance, which was referred to earlier, for instance, on the east side of New York, and there are certain areas

even on the west side, but not in this particular point, which are locations where people with sufficient income can afford to pay the high rents for luxury housing, but you won't find that prevalent throughout Manhattan or prevalent throughout any one of the boroughs.

THE COURT: But generally speaking, what do you say to Mr. Land's inquiry?

THE WITNESS: I would say in terms of luxury housing it is a limited part of the city.

THE COURT: But no different from most of the city with respect to luxury living?

THE WITNESS: No, I wouldn't say so.

Q The loss of luxury housing in the West Side Urban Renewal area, is that, in your opinion, a defeat of the plan?

A No.

Q Are you familiar with Site 30?

A Somewhat.

Q Could you tell us when you first became involved with Site 30?

A Yes.

THE COURT: When?

THE WITNESS: Site 30 first came to my attention, as the director, I guess of the HUD office, in 1970 when

certain occurrences were going on up there. I think it really started with squatters. As a result of that and the concerns of some of the brownstone owners and discussing it with Dr. Logan, not necessarily with members of CONTINUE but various brownstone owners up there, and also I became aware of the fact that the interest of people like Strycker's Bay, because apparently a discussion was then being entertained as to whether or not Site 30 should be changed from what it had been designated, as a middle income site, I will say, to a low income site.

Q This interest which you had in Site 30 then pre-dated the city's request for federal funds for Site 30?

A Yes.

Q And can you tell us approximately how many meetings you had with the various people who were from that area that wanted to bring to your attention their own particular interests?

THE COURT: Just about how many meetings.

A A maximum of half a dozen.

Q Could you then tell us -- strike that, please.

Are you familiar with a group called CONTINUE?

A I am familiar with the name and I have received correspondence from them.

Q Do you recall what CONTINUE's position was as to the squatters?

A I don't remember that the squatters were as much a part of the conversation as it was a general concern as to what was happening to the Urban Renewal area.

THE COURT: Is it Commissioner?

THE WITNESS: No.

THE COURT: What is your title?

THE WITNESS: Director.

THE COURT: You are that today?

THE WITNESS: I am, but in a different position.

THE COURT: I don't know whether you brought that out.

What do you do today?

THE WITNESS: I am the executive director of the Connecticut Housing Financing Authority on special assignment from the Department of Housing and Urban Development.

THE COURT: And that is located where?

THE WITNESS: Hartford, Connecticut.

THE COURT: I am sorry, Mr. Land. You go right on.

Q When the city made an application to your

department for funding on Site 30, what did your department do?

A I presume by an application you mean the preliminary request.

Q Yes.

A The request had to be preceded by a number of actions before it could be accepted, because at that time before we could accept an application the site would have to be designated for the purpose for which they wished to use it.

Q Yes.

A When we were aware -- will you rephrase the question, because I want to be sure to follow the Judge's direction.

Q I want to know what you, on behalf of your agency, did following the request by the city for funding on Site 30, in other words, what transpired between you and the city and the various groups.

THE COURT: What steps did you take?

A Because of the issues that appeared to be on the surface --

THE COURT: Such as ?

THE WITNESS Such as the squatters, the interest of Strycker's Bay, the fact there was quite an

obvious controversy that was brewing.

THE COURT: Would you just listen to this for a moment? What, as an official, did you gather -- I didn't say you were satisfied by proof, but what did you gather at that time was the gist or what we call in law the gravamen, the basis of their complaints? What were they complaining about?

THE WITNESS: There were two complaints. I think there was one compalint that the Urban Renewal area as it was then being developed by the city, frankly, was on the point of tipping in terms of the racial -- in other words, they weren't keeping to the original plan.

THE COURT: All right. What else?

THE WITNESS: And on the other side of the picture were those people very concerned with the provisions of housing for low income families and thought they were being deprived of it.

THE COURT: There you are.

Q As a result of this controversy, could you tell us did HUD make several studies?

A Yes, we did.

Q Could you tell us what these studies were?

A We made a number of studies, all of which are required, particularly in more recent years. The two

basic studies that I think would be of concern to the Court would be, one, in terms of environmental analysis, and the second one i s in terms of what we call site selection criteria. The site selection criteria actually deals with part of the problem I was just discussing.

Q That specific problem?

A Yes.

Q Was there anything special about these two studies with respect to the controversy within the community?

A Yes. Actually, when a controversy exists, we are by our own instructions required to go much more in depth in both phases. Both of these phases are rather comprehensive.

Q Have you compared studies made on Site 30 with other studies made in the city?

A That is one of the most in-depth studies we made. Not the only one, but one of them.

Q You are aware that the federal commitment for Site 30 is approximately $6 million, are you not?

A This I understand, yes.

Q I would also assume that this $6 million really pales into insignificant when compared to the total financial commitment which the federal government

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has made throughout the years to this West Side Urban Renewal area, does it not?

A Yes.

Q Would you characterize it almost as a grain of sand on the beach?

A I would say if you added everything together it might be that.

THE COURT: That's going pretty far now. Come on, a grain of sand on the beach. $6 million with all our billions of spending. That is still a first class hyperbole. Did you ever come across that word?

MR. LAND: Yes, sir.

THE COURT: You are engaging there in a hyperbole to the Nth degree. I think you ought to retract that because the record shouldn't show you are so careless in your comparisons.

Q Could you compare the financial commitment of Site 30 with the total financial investment which the federal government has made in the West Side Urban Renewal area?

A I can't in dollars because I don't know the dollars, but I do know the kind of financing that the federal government had to undertake, which is participating on a two-thirds basis with the city in reference to site

acquisition, participating in the cost of relocation involved in demolition, let alone the housing itself, the credits that they give to the improvements that the municipality makes and because of the number of sites that have been developed in the area even though -- I guess there are two or three dozen -- the amount of money has to be a very substantial sum and I would say on a comparison basis obviously the Site 30 money is very much in the minority. It is a much smaller percentage.

Q Could you tell us specifically why your agency became so involved with Site 30 when it was not a substantial portion of your commitment to the West Side Urban Renewal area?

A Well, we were aware of some of the things that have been previously referred to and we were concerned about the city following the plan, at least staying within some reasonable scope of it, and since we were furnishing the interest subsidy for the city projects as well as our own financing, since we were furnishing rent supplement and since we were also furnishing the funds to build the low rent housing part of it, we had a very substantial interest to see that the plan was being followed.

Before I would make any decision we had quite a discussion with the city about it and I wanted their assurance that they were in fact heading towards the objectives that they started out to do.

Q And could you be a little more specific as to what was -- let me withdraw that, please.

A commitment of funds for Site 30 as a low income housing project would result in some low income people residing in the West Side Urban Renewal area, is that not correct?

A I guess about 160 families or 160 units in that one site.

Q If Site 30 had been developed as a middle income housing project, would there have been some low income units assigned to that building?

A I would say so, based on the experience that's already there. It might range from 20 to 30 percent.

Q If there are 160 units of low income housing if we have an all low income housing project, but if that project was a Mitchell-Lama perhaps you would have 48 -- 30 percent of 160, 48 units of low income housing units, is that correct?

A Yes.

Q So that by reason of the conversion of the

designation of Site 30 from middle income to low income, you have an increase of approximately 114, 115 low income units, is that not correct?

A Approximately, yes. I think it's 112.

Q What type of concern do you have whether there is an increase of low income units regardless of size? What interest are you trying to protect?

A Well, the basic interest of course is the viability of the Urban Renewal area and the financial stability of the financing that has been placed in there whether it's by HUD or by the city or state.

Q When you talk about protecting your financial interest, I take it you mean you want to keep the area marketable, is that right?

A Right.

Q And if it does not become marketable the problem is various commitments come into default, is that right?

A That could happen.

Q Then what happens?

A Then our projects, we will take them back from the lenders and have to re-sell them at whatever the value is at that time. The assumption would be if it's -- I am not talking about one single instance of a

house, but if it became prevalent there would be a substantial loss suffered by the government.

Q As the area director of HUD, would you jeopardize the financial commitment that had been made over the past ten years for one low income housing project?

A No.

Q Are you absolutely positive of that?

A Certainly.

Q As a matter of fact, that's what it is all about, not to jeopardize past commitments and hopes?

A Right.

Q You mentioned earlier the concern of some people in the area was one of tipping, was it not?

A It appeared to be. I wouldn't call it tipping, but that is a description of it. They were afraid it was going to go into a much larger percentage of minority residency.

Q You personally worked on the site selection criteria study, did you not?

A I didn't work on it. Our technical people did work on it but I reviewed it and made by decision based on the recommendations that the New York HUD area office staff had compiled.

Q In a word or two, could you tell us what your

feelings are on the tipping issue or the deterioration issue?

A To the best of my knowledge, because I haven't been here for the past year, I don't think that's a problem. I think that -- I will stop there.

Q Is the tipping issue, based upon your studies, a legitimate issue or is it more in your mind a tempest in a teapot?

MR. MORRIS: I object to counsel's characterization.

THE COURT: Yes, objection sustained. Reframe your question.

Q Could you give us your view of the --

THE COURT: Your estimate.

Q Could you give us your estimate of the --

THE COURT: Tipping connection.

MR. LAND: He likes the word "deterioration" rather than "tipping."

THE COURT: We have already dealt with "tipping". The director has used it in a sense that we all understand. It's compatible with what we understand it means. Put it to him simply that way.

Q Could you give us your evaluation of the tipping issue?

THE COURT: As it relates to the West Side Urban Renewal area.

A In my opinion, I don't think that there is any threat of that happening.

Q At all?

A Not as the situation stands now or when I last knew it.

THE COURT: As of what date was that?

THE WITNESS: April 30, 1973.

Q Could you very briefly give us the salient reasons for your belief?

THE COURT: As of that date?

MR. LAND: As of that date.

A As far as I know, number one, we had no mortgages in default, at least I am not aware of any that are in default in the brownstones. The issues that have been raised, it seems to me they were raising fears more than fact, although I readily recognize in almost any area in the city, in any metropolitan area, any inner city, there are going to be crime problems. I was aware of the general plans, more than aware, I was very much interested in the plans that the city was going to follow through and particularly in terms of the Mitchell-Lamas and this reference before to what

percentage of low income families they were going to place in them. While they conceded it perhaps in one or two instances, we got assurances that as time went along these things were going to be straightened out, that the balance would be maintained as originally planned.

Q You were assured the balance would be maintained, is that correct?

A I see no reason why it can't be.

Q As to the size of the project on Site 30 compared to the size of other low income projects in and around the city, could you give us a characterization of whether it's large, medium or small?

A Well, compared to many of them, it's very small.

Q Would that tend to support your conclusion there will be no tipping because the impact is so slight in the area?

A I would say so, yes.

THE COURT: Gentlemen, you are in conference and we are going to adjourn in a few minutes anyway. You should do that. I am not finding fault with that. I am trying to make it easy now. We are going to recess for lunch in a few minutes. So why don't you take your time. We will resume at 2:15.

Gentlemen, I may be a few minutes late. I hope not. Please be ready to resume at 2:15.

MR. DOUW: Your Honor, if you have no objection, I would like one of my own witnesses to follow Mr. Maylott.

THE COURT: I have no objection. Is that satisfactory with all of you?

MR. GOLD: We may mix up the witnesses.

THE COURT: I have no objection as long as the criterion is what we should all be concerned with, to get the proof in and get the record completed as rapidly as possible.

Announce an adjournment.

THE CLERK: Recess to 2:15.

(Luncheon recess)

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AFTERNOON SESSION
2:20 P.M.

J O H N B. M A Y L O T T resumed.

DIRECT EXAMINATION (continued)

BY MR. LAND:

MR. LAND: Please mark this Defendants' Exhibit AD.

xxx

(Defendants' Exhibit AD was marked for identification.)

Q I show you Defendants' Exhibit AD for identification and ask you if you can identify that for us.

A That is a copy of the consolidated annual contributions contract between the Department of Housing and Urban Development and the New York City Housing Authority. On it is listed a number of low rent housing projects that are being financed by HUD.

Q Is there an indication there as to Site 30 in particular?

A Yes. It is listed --

THE COURT: Yes is the answer.

Next question.

Q I show you Page 3 where it indicates Project Number NY-5-192, calling for 160 units. Is that Site 30?

A I believe it is.

Q Is there an indication on that same page as to

the cost for Site 30 which the Government has committed itself?

A The funding, yes.

Q How much?

A $6,090,000.

MR. LAND: I offer this in evidence.

(Pause.)

MR. MORRIS: No objection.

THE COURT: Mark it in evidence.

THE COURT: Received, Defendants' Exhibit AD.

MR. LAND: I have no further questions.

xxx (Defendants' Exhibit AD was received in evidence.)

MR. GOLD: I have no questions.

MR. DOUW: I have no questions.

THE COURT: Cross-examination

CROSS-EXAMINATION

BY MR. MORRIS:

Q Do you believe the terms of the West Side Urban Renewal plan are currently being carried out through the area?

A Yes.

Q Aren't fears of people facts?

A No.

Q They are not facts. Where do you live?

A Hartford, Connecticut.

Q How long have you lived there?

A West Hartford. One year.

Q Where did you live before that?

A Stamford, Connecticut.

Q How long did you live there?

A Twelve years.

Q So that you lived in the State of Connecticut during most of the period of the West Side UrbanRenewal area?

A Yes.

Q You were not a resident of the city of New York at all?

A No, I was not.

Q When did you last visit the West Side Urban Renewal area?

A During the year 1973.

Q When did youvisit in 1973?

A I can't tell you.

THE COURT: What part of the year?

THE WITNESS: I would say the last half.

Q In what connection was that visit?

A Just a general review of all the housing production that was going on in the West Side Urban Renewal area.

Q When had you visited the area before that?

A Every year, at least several times a year.

Q You went through the area?

A Yes.

Q Every year prior to that?

A Yes.

Q Other than those periodic visits which you made as part of your work in connection with the representation of HUD, what contact did you have with the area?

A I had one man assigned full time to that area for approximately 11 years. He was there every day and reported to me almost every day. Certainly any time there was a problem or question raised he reported to me.

Q You testified that the success of the area depends upon performance of the urban renewal plan, is that correct?

A Yes.

Q In your opinion, how many units of low income housing were planned for the area?

A I don't have those figures available.

Q Do you know it?

A I know how many units have been talked about?

Q How many?

A Somewheres in the area of 2500 units, a long time ago.

Q How many units of low income housing are there in the area now?

A I have no knowledge.

Q Do you know how many units there were in 1973 when you visited the area?

A No, not exactly.

Q Do you know how many units of low income housing there will be if the unfinished projects in the West Side Urban Renewal area are completed?

A No. I don't have that information.

Q You don't know that at all?

A No.

MR. LAND: That is misleading. Some of the planned projects have been changed and there are new developments by the State, as I understand it, replacing what was previously considered as part of the plan.

THE COURT: If anybody should be able to take care of that on a question like that it would be the director in the field of operation. He is the one to correct anybody. He can say the question is half baked or not solid. He doesn't seem to quarrel with it.

Objection overruled.

Q What is the term "tipping point"?

A My interpretion of it is, it is the point where

the occupancy of a given area is such that it becomes racially imbalanced.

Q Would you describe in a little more detail what that means? How the processes would work and what would happen?

A Generally speaking it is the result of some relatively rampant action. I am not an expert on that.

It represents an influx of whatever may be coming in. At this time I take it we are talking about low income minority families, and as a result of a substantial influx of such families it could have a serious effect on the residency of the people already there.

THE COURT: Is there substance to that kind of view? You don't regard that as a ridiculous concept, do you with regard to too many people of a low income category coming into an area? Do you think that has no validity?

THE WITNESS: I think it has validity.

Q You testified that you did not believe the area has passed the tipping point, is that correct?

A That's correct.

Q What do you base that on?

A Just the facts as I have learned about it, that the percentage of the population is still substantially

white and the minority population is substantially less than the percentages you might attribute to tipping.

Q That is without knowing how many units of low income housing are in the area and how many are in planning, is that right?

A That's right. I don't think the low housing necessarily real because there are no plans -- I think -- I know this -- there are no plans to put so much low rent housing in it that the program would be defeated. I could not give you specific numbers.

Q You don't know the numbers, but you know it is not being defeated?

A That is my opinion.

Q If the provisions of the West Side Urban Renewal plan are violated by creating more units of low income housing than called for in the plan, do you think that would affect the tipping point?

A I am not sure there is any specific number of units that were called for in the plan.

Q You testified before there were 2500.

A There was a discussion of 2500 that was going around in conversation, but not to my knowledgye -- there is any number of units that arein the plan.

Q How many units do you think there were con-

templated in the plan for low income housing?

A I don't think there was any specification.

Q You don't think there was any provision at all?

A Not in the plan.

Q I am talking about commitments that were made by Government officials.

A There were no commitments made by Federal officials. I can't be responsible for any local official's commitments.

Q Are you familiar with local official commitments?

A I don't know.

Q You don't know anything about that?

A No. I have heard it, but not officially.

Q You can't testify to that?

A No.

Q If the provisions of the West Side Urban Renewal plan are violated by creating more units of low income housing than were committed by the community in connection with the development of the plan, in your opinion would that have any effect on the tipping point?

A Not necessarily. It all depends on the amount of units you are talking about. I can't conceive of how the community is -- how New York City is going to

receive enough funds to fund enough low rent housing on the West Side Urban area for that to happen.

Q You base your conclusion on the fact that the City or the community can't get enough funds to put in enough low income housing to create a tipping point; is that the reason for your conclusion?

A That is one reason.

(Pause.)

2pm

Q Now, in connection with this project, did you know that the project in question was controversial before the federal decision to commit funds to it was made?

A Yes.

Q Did you know it was controversial?

A Yes.

Q What were the substantive issues raised in that controversy?

A I believe I mentioned it earlier. There were two basic issues, as I understand it from listening to the various parties concerned. One is the concern of some of the brownstone owners as to the ultimate -- what was going to happen to them, their family and their housing, and, on the other hand, the interest of other parties to be able to accommodate more low income families in that area. I think that was partially related to attempting to resolve some of the -- I am not sure of this, but it was probably concerned with people who were dislocated and wanted to come back.

Q How were you informed as to these issues?

A I had a meeting with you, I had a meeting with Mr. Logan, I had a meeting with people from Strycker's Bay and I had reports from my field people. I had dis-

cussions with the Housing Development Administration.

Q Mr. Maylott, can you tell me what the term "urban blight" means?

A Well, I don't know who is going to define it.

Q I am asking you to define it.

A I will give you my definition. "Urban blight" in my opinion is a deterioration of not only housing but all the services that are related to housing, to employment and the whole economic aspect of a given area.

Q Can you tell me what "urban decay" means?

A I would say that is one step further along the road.

Q Of the same concept as urban blight?

A Yes.

Q What does the term "urban design" mean?

A Urban design? Again, that depends on whether we are talking about the planning of an area, whether you are talking about the planning of a structure or a program.

Q As it would relate to the West Side Urban Renewal area plan.

A That is different.

Q That is what we are talking about throughout.

THE COURT: He didn't know, and neither did I.

A My understanding of the urban design as it applies to the West Side Urban Renewal area is that it was the plan to provide an economically, racially integrated housing area with all types of housing, high-rise, low-rise, brownstones, with the necessary services to relate to them and, as I remember it, although I haven't heard it lately, part of the urban design was to make this one of the showplaces in the country as to what can be done in a small 20 block area in terms of urban renewal and bringing together all these social forces and economic forces.

Q Do you know what the term "quality of the built-in environment" means?

A I will give you my interpretation.

Q I am asking for your interpretation and your definition.

A I presume "quality of the built-in environment" --

Q Of the built in environment, quality of the built-in environment.

A My interpretation of that would be the effect as to what exists as it affects people. I don't pretend to be an expert on that subject.

Q I am sorry.

A I am not an expert on that subject.

Q What does the term "aesthetic values" mean to you?

A The appearances of whatever it is, the physical things, and how they affect the people who are affected by them.

Q What does the term "neighborhood stability" mean?

A Neighborhood stability means several things. It means, first of all, economic stability, that there is a relative amount of -- I was going to say peace -- relative calmness in terms of a neighborhood and that all parts of the neighborhood are there and functioning properly.

Q What do you mean by the term "psychological attitudes and fears"?

A I think we had a demonstration of psychological attitudes and fears. As a result of the squatters invading one portion, at least, of the West Side Urban Renewal area it created fears among homeowners who were not near there, but by virtue of the results they created psychological attitudes and fears.

Q What about the term "alternative sites"?

What does that mean to you?

A It means more than one site for a proposal.

Q Does ti mean that there is a choice or a possibility of selection of sites?

A Possibly.

Q And, Mr. Maylott, in connection with Defendants' Exhibit E, which you testified was prepared by your office and which you supervised and approved --

A Right.

Q -- can you tell me whether Defendants' Exhibit E gives consideration to the function of urban blight as you have defined it?

MR. LAND: I will give a copy to the witness.

A I don't have a copy.

(Document handed to withess)

THE COURT: Thank you.

Q I am speaking now only of the pages of this report which were prepared by your office, by the HUD office, which I think includes the first four pages.

You see the first four pages?

A Yes. I am looking to see which exhibit this is.

THE COURT: That is Exhibit E?

MR. MORRIS: Yes.

MR. LAND: That is the statement which the Department of Housing and Urban Development prepared pursuant to the National Environmental Policy Act.

THE COURT: Have you got it there, Director?

THE WITNESS: Yes.

Q Where does that consider the question of urban blight?

A I haven't finished looking.

THE COURT: Give him a chance.

A It doesn't consider urban blight by title but I certainly think that would make reference to it by subject matter.

Q Would you show me where?

A One of the things I was talking about was density, public services.

Q What page are you on?

A Page 3. A reference to schools, a reference to community facilities, a reference to public safety. I think all those things are involved in public blight. Either they are there or they aren't there, and if they aren't there it would have a bearing on blight, obviously.

Q Would you say that the items you have mentioned cover all facets and all aspects of urban blight?

A No, I wouldn't say so.

Q What about urban decay?

A Same answer.

Q What about urban design?

A Urban design in the sense that I mentioned before I don't think is particularly applicable to this particular document.

Q I just asked you whether this document discloses anything with respect to it?

A No. That is taken care of in other ways.

Q It is not disclosed in this document?

A I didn't notice it, no.

Q What about the quality of the built-in environment?

A Only by references I have already set.

Q Those are the only ones that deal with that?

A Yes. That is what this is for.

Q What about aesthetic values?

A I don't think aesthetic values are necessarily part of the environmental statement. There may be other considerations in other places we might take that up. We would be more concerned with that in the design of housing and the relationship of housing to the neighborhood, and so forth and so on.

THE COURT: At any rate, the document before

you, E in evidence, does not deal with that aspect?

THE WITNESS: No.

THE COURT: All right, he doesn't believe so.

THE WITNESS: I don't believe it is supposed to.

MR. MORRIS: He doesn't believe it is supposed to?

THE COURT: That's right.

Q What about neighborhood stability?

A I think it does deal with it in the fact of the information it has, public schools, public safety, public facilities and so on.

Q Does that cover all aspects of neighborhood stability?

A No, it does not. It doesn't cover the economic factors.

Q What's that?

A It does not cover the economic factors.

Q What about psychological attitudes and fears?

A I don't think it deals with that.

THE COURT: He has already answered your question.

MR. MORRIS: No --

THE COURT: Unless you want it demolished. You asked him on fears, facts. Answer no. I should think that would be up your alley for your argument. The other side will undoubtedly demolish it. Can you bear it from your side, this question and answer?

MR. MORRIS: No.

Q Is there any consideration of alternative sites in this report, in Defendants' Exhibit E?

A No. This is designed primarily -- let me look again to be sure.

THE COURT: Take your time.

A I don't see any particular reference to it. This particular report was for this particular site, although it might apply to others.

Q Do you know how the Department of Housing and Urban Development defines the term "environment"?

A I don't know if I can give you an accurate definition. I can tell you this, volunteer this, that in terms of this environmental requirement that we have, it covers many facets which is quite frequently misunderstood. When they talk about the environment, sometimes people think we are talking about antipolution in the skies and so forth. We are talking about all the parts that go together to make up a given place and time, and

that is the facilities that are available, the living conditions that exist, the availability of transportation, schools, hospitals, the quality of public services, the whole gamut of things.

Q Does it include aesthetics?

A It could if the aesthetics were so poor that they had a real deleterious effect on the environment. It could, but I don't think its necessarily a major aspect of it.

Q Does it include cultural issues?

A Cultural issues?

Q Yes. Cultural situations.

A It certainly includes the availability of cultural activities.

Q Yes. How about social issues?

A Unfortunately, sometimes this environmental statement has been used as a means of trying to arrive at some social issues, but it's not really supposed to be used for that purpose.

Q That is not the purpose that you understood the report is for?

A No.

Q What is the importance of community attitudes in a report like that?

A In terms of requirements in doing this type of an analysis, depending on the findings that are made and the fact that these things are published, if the community attitudes are such that there is a substantial opposition or opposition of any great degree, then a further statement has to be prepared and circulated.

Q What does the phrase "threshhold" mean as used in connection with the HUD environmental regulations?

A Threshhold I think is the point -- I am not sure I can answer that correctly, so I don't think I will try.

Q You can't answer?

A No.

MR. MORRIS: May I confer for a moment?

THE COURT: Surely.

(Pause)

MR. MORRIS: That's all.

THE COURT: Any redirect, Mr. Land?

MR. LAND: A few questions.

REDIRECT EXAMINATION

BY MR. LAND:

Q Mr. Maylott, I show you Defendants' Exhibit B, being a site criteria study in relation to Site 30. You are of course aware of that document, are you not?

A Yes.

Q You mentioned, in answer to a question by Mr. Morris, that the statement prepared by NEPA did not concern itself particularly with social issues?

A Right.

Q Does the site selection criteria study concern itself with social issues?

A Much more so.

MR. LAND: Thank you. No further questions.

THE COURT: Anything else?

MR. GOLD: No, your Honor.

THE COURT: Gentlemen, may I say, without indicating the weight to be given to the witness' testimony, but I am grateful to you, Mr. Land, because your direct examination showed preparation. Every question had a pertinency. You had thought it out. You saved an awful lot of time. No doubt he is an important witness for your side. The cross-examination likewise. You went right to the point. It was effective. I say that to encourage you to do likewise from henceforth on.

Thank you, sir.

(Witness excused)

THE COURT: Next witness.

MR. DOUW: I call Mr. David Goodman.

D A V I D J . G O O D M A N , called as a witness by defendant Strycker's Bay, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DOUW:

Q Mr. Goodman, where do you live?

A I live at 153 West 91st Street.

Q Is that in the West Side Urban Renewal area?

A Yes.

Q What kind of building is your residence?

A It's a two-family, four-story brownstone building.

Q When did you purchase it?

A In April, 1969.

Q What was the condition of your brownstone when you purchased it?

A It was a rundown, one-family house.

Q Have you done any renovation since you moved in?

A We have --

THE COURT: Yes or no.

THE WITNESS: Yes.

THE COURT: Next question.

Q Could you describe the extent of the renovation you have done?

A Our intention is to restore it. We have done complete plumbing, electricity, modernized the mechanical parts of it and tried to restore the aesthetic parts.

Q Do you have any tenants?

A Yes, we do.

Q How many tenants do you have?

A We have one. They live in the upper two stories of the building.

Q A family?

A A family.

Q How large is the family?

A Man and wife and two children, two young children.

Q What rent do you charge?

A $600 a month.

Q How long have you rented that apartment?

A Since the beginning, five years.

Q Since you have moved in ?

A Right -- well, not since we have moved in. Since September of 1969.

Q Have you ever had any trouble renting it?

A We have the same family there. They have begged us to stay.

Q Do you have a family?

A Yes, we do.

Q Would you describe the ages of your children?

A We have a daughter 22 and a son 18.

Q Do they live with you, your children?

A Yes, they do.

Q Where do you work, Mr. Goodman?

A I work at the City College.

Q And what is your job or profession?

A I teach.

Q And what is your field?

A Political sociology, properly speaking, political science.

Q Does your wife work?

A Yes, she does.

Q Where does she work?

A Administrative associate at the English Department of Columbia University.

Q Would you describe where your house is in relation to the Trinity School?

A It's the third building west.

Q And would you describe where your house is

in relation to Stephen Wise Towers?

A Directly across the street.

Q Are you familiar with the site known as Site 30?

A Yes.

Q And would you describe where Site 30 is located in relation to your house?

A It's on the west -- southwest corner of 91st Street extending to 90th Street, taking up the whole corner.

Q Where did you reside prior to your moving to your present residence?

A 315 West 106th Street.

Q Would you describe to the Court your reasons for moving to your present residence?

A We had a great desire for a brownstone house, a great desire for more room, a great desire to own rather than rent. My parents had lived at 96th Street for -- well, since about 1938, and I had lived there, of course. My grandparents had lived at 101st. We knew the area very well. I had gone to Joan of Arc High School. We just knew the area and were devoted to it. We eventually found a house after a year and a half or so of looking and this was exactly what we wanted, a house that we could restore, and we found it.

Q Was there anything about the immediate neighborhood that attracted you and were reasons for your moving?

A Yes. For the most part I guess the thing that attracted us is that it was open. There were schools of all kinds, private and public. In terms of our ability to rent the apartment that we intended to make, there were churches, there were stores, there were, as I say, schools. We expected young persons with small children would come in. And all these things were there, synagogues, churches of all variety. And it was an attractive area. It was convenient in terms of transportation with the subway system and buses. We are in the middle between 86th and 96th Street crosstown. It was close to both parks.

Q Mr. Goodman, are you in the habit, you and your wife, of walking in and around the West Side Urban Renewal area?

A Of course.

Q Do you walk frequently?

A Yes.

Q Do you walk in the evening or at night?

A Every night, because we have a dog which we walk after 11:00. We walk the dog after 11:00 or 11:30.

Q So you are used to walking late at night, are you?

A Right.

Q Do you walk on the weekends?

A Yes.

Q Could you describe to the Court what you observed, generally speaking, in the neighborhood with reference to garbage?

A It's in cans or plastic bags ready for -- I mean if it's out it's in cans or plastic bags ready for the Sanitation Department to pick it up. On my particular street they come sometime between 8:30 and 9:00 in the morning and then there is nothing out. Once in a while somebody will leave a garbage can out all day, but usually I there is nothing there until the next night.

Q Do sanitation trucks come every day, do you know?

A Every day, of course except Sunday.

Q Have you ever noticed gargage strewn on the streets in the Urban Renewal area?

A No.

Q What do you observe around the Urban Renewal area as to graffiti? Can you describe to the Court your observations on that?

A That's surprising. Actually there is surprisingly little considering the amount of graffiti around the city as a whole. I have been following articles in the Times. What is surprising about it is that I think the architecture in some of the new buildings is rather depressive. There are big walls built up from the street which would seem to invite children or whoever does this to use them for graffiti, and there is almost none on those walls.

Q Have you or your wife ever been mugged or ~~attached~~ attacked or molested in any way while you have lived in the area?

A No, sir.

Q Have you or your wife ever received comments which you can describe as obscene or unpleasant or a racial slur or unpleasant in any respect?

A No, sir.

Q Have you ever had any difficulty with people whom you know to be from Stephen Wise Towers?

A No. Quite the contrary.

Q That is a public housing project, is it not?

A Right.

Q Have you ever had any difficulty with children that you know to be from Stephen Wise Towers?

A In what way?

Q Any difficulty at all.

THE COURT: He doesn't want to lead you. He doesn't want to suggest. Was there anything that bothered you or was offensive or make it unhappy or unpleasant?

THE WITNESS: No.

THE COURT: Next question.

Q Do you see students in your immediate neighborhood from the Trinity School?

A Yes. Actually their rhythm four times a day. They come in the morning and I know when they come because they make noises at our dog, who reacts to them. She begins barking when children come by or when they are whistling or making a great deal of noise. Then they go -- a lot of them leave for lunch and come back and then leave again 3:30 or 4:00 o'clock.

Q Is it by their rhythm you are able to identify them or are there other factors?

A Except for the older children they seem to wear some kind of a uniform. They seem to have blazers, shirts, ties. They wear a uniform.

Q Have you ever had any difficulty with these students?

A Not really any more than children. I have had to go over to the school a couple of times to ask them if they could possibly get the children to stop teasing the dog. But no real problem. There is a tendency for them to lose things or drop things as they leave school, notebook paper, wrappers, that sort of thing. We occasionally ask one of them to pick it up as he has dropped it. There was one time we put out Christmas balls on the tree that grows in front of the house, and the Trinity kids had a way -- had a habit of getting up on the rail of the stoop next to ours to reach and pull them down. We were kind of surprised. It was attractive to children to do. The kids across the street didn't try to do anything about it, but the kids coming to school would knock them down. But that was no --

Q Do you have any complaints, you yourself, in your neighborhood about noise?

A No.

Q Any noise in particular from Stephen Wise?

A No. We sleep in the room that faces them.

THE COURT: The answer is no. You can never improve on it if that is your answer.

Next question.

Q Do you have occasion to go out to restaurants in the area?

A Frequently.

Q Mr.Goodman, there has been testimony here about the restaurants in the West Side urban renewal area and also along Broadway between the same streets, 87th and 97th. Within that general area will you describe some of the restaurants you are familiar with and comment as to their quality and prices and that kind of thing?

A They range from quite inexpensive and quite good to quite expensive and quite bad. There are two places we favor. One is a Szechuan restaurant on95th and Broadway and another one is a little family Mexican restaurant on 93rd, 94th and Amsterdam called -- I can't remember the name. It is on the tip of my tongue.

We have gone there even before we moved to the

area.

THE COURT: This Mexican place?

THE WITNESS: Yes.

THE COURT: What do they charge for a dinner?

THE WITNESS: $2.

THE COURT: How about the Szechuan?

THE WITNESS: That goes from $2.85 for what we buy.

THE COURT: What can you get for that?

THE WITNESS: Probably the best Szechuan food outside --

THE COURT: That may be the only real benefit I get out of this case.

THE WITNESS: It is the best Szechuan food as far as we are concerned.

Q What do you get?

A For that you get one dish. My wife favors chicken with walnuts which costs I believe $285 or $2.95. There is a very hot shrimp dish that I like for about the same price.

THE COURT: That is at 95th and Broadway?

THE WITNESS: Yes.

THE COURT: Where is the other place, the Mexican place?

THE WITNESS: It is called Mitierra. It means my country, my land.

THE COURT: Where is that located?

THE WITNESS: I believe it is between 93rd and 94th.

THE COURT: On Broadway?

THE WITNESS: On Amsterdam on the west side of the street.

Then there is Maharaja, which has been there since I can remember. It is an Indian restaurant.

There is a Lebonese restaurant or Middle Eastern, the Cleopatra.

There is a relatively new, in fact it is has been there only a year, although it is has improved recently in terms of its physical makeup; a macrobiotic restaurant with some Japanese food, Tempura, and things of that sort.

Then there are a lot of the old delicatessens. There is a fancy one such as Murrays, for sturgeon. It is 89th Street andBroadway, and Barney Greengrass.

THE COURT: The Court can take judicial notice of those two.

What does taking judicial notice mean? I notice you are laughing.

THE WITNESS: I don't know.

THE COURT: That means the Court, without any proof, regards what you have to say with regard to those two restaurants is beyond question.

THE WITNESS: That is funny, Judge.

As to other restaurants, there is the Rabelais, which is 90th and Columbus. It is a very expensive French restaurant and we think very mediocre. We have been there a few times. They were written up in the Times about two years ago. One of their dishes was highly touted. It was a cherry dish. We had it and thought it was mediocre. It is pleasant.

What they have done, by the way, that is interesting, a lot more of these restaurants have moved out to the side bar. There is the Library.

Q Where is the Library?

A 92nd.

Q 92nd and where?

A Broadway.

About a year and a half ago they built a structure out onto the sidewalk and people come there. I notice even kids coming home from school will sit there in the middle of the afternoon and drink tea or coke or whatever they have.

The Rabelais last summer or last spring built

an awning affair over the sidewalk and people drink in the afternoon, they eat dinner out on the sidewalk. That is opposite Site 30 as a matter of fact, and they did that all summer, well into the fall. It is still there. I guess they intend to do it again.

THE COURT: Next question.

Q Turning to another subject, have you been in any way associated with the organization CONTINUE?

A I am on the mailing list.

Q How long have you been on that list?

A Since its beginning, I believe.

Q When was the beginning, from your experience?

A 1967, I would guess.

Q During this time, since 1970, have you received their news letters?

A They seem to have stopped sending news letters. At one time they had somebody in charge of that and ran out of funds. They have sent I think -- in the last year I have received two notices from them .

Q Prior to that time did you receive letters?

A Yes.

Q What years were those, if you can remember?

A 1971-1972, largely.

Q Could you describe to us your general impression

or reaction to those news letters?

MR. MORRIS: I object, your Honor. It calls for a conclusion. He can describe the news letter.

THE COURT: I think you ought to give us the reaction, but I don't think it excludes the testimony.

Can you give us your reaction, as counsel put it, to those letters and tell us why?

THE WITNESS: They were very well put together, the news letters. They were quite neat, they seemed to bend over backwards, I think, not to sloganeer. They did not give as much factual information as I was interested in and which I received fromStrycker's Bay Neighborhood Council, and much of what they wrote was directed towards what was happening currently at Strycker's Bay Neighborhood Council, so that there were not departures from what was currently in action there.

Q Were there occasions when you came to investigate some of the things that were stated in those newsletters?

A In the last years, the last two notices I received, there was a marked change in the style of the publication. First of all it had become a one-sheet arrangement printed on both sides. The style had changed completely.

THE COURT: Wasn't that something they called Urbangrams?

THE WITNESS: Similar to that, yes.

THE COURT: He is asking about a letter.

THE WITNESS: That there letter.

THE COURT: The Urbangram.

THE WITNESS: That was -- the two notices I got were notices of meetings to be held at Strycker's Bay.

No, I am sorry. One was a meeting to be held at Strycker's Bay and one was a meeting of the local planning board.

Q Back in time, about 1971-1972, the newsletters that you received then, did you do any investigation about the contents of those newsletters at any time?

A FRequently, depending upon what it was that I was interested in or it. I knew some of the people who were active with CONTINUE quite well, and when something interested me I would ask them or I would ask anybody I knew who might know something about it. I have gone over to Strycker's Bay and asked them or I have gone over to the HDA offices and asked them.

Q How did you find the factual bases of the things that were written in the CONTINUE letters?

A The last two or three pieces that I got there was a marked change in the whole style. They got into characterization which they had not done before which I saw

no reason for. I objected to that but that was their business.

THE COURT: Whatever fault you found really related to the last two issues, is that what you are saying?

THE WITNESS: No. There were mistakes in earlier issues.

THE COURT: That is what he wants to know. Factual mistakes?

THE WITNESS: Yes.

One of the things, it was a late issue, and they were concerned about the tenanting of the building built right across the street from Trinity on our corner. I guess that is between 92nd and 93rd.

Q Is that Leader House by any chance?

A That is the house, Leader House. They sent what I considered a scare bulletin that Leader House was being filled with poverty families. I can't remember exactly -- I believe they said something like 80 per cent of the tenants were poor and that the city had put something over on them by stocking this building with poor people.

If it were true I was concerned about it. I asked around, including, again, friends of mine who were active with CONTINUE, about it. I was told by people at Stryker's Bay, for instance, that it was entirely untrue.

There was a meeting to be held to discuss it at Strycker's Bay which had, as a projected speaker, a woman, I believe, who was responsible for renting in the building so I could expect to find out there, anyway, what the truth was. But when I asked a friend of mine who was with CONTINUE about it, his reaction was they really don't know at CONTINUE, that it was his impression they ~~kited~~ cited the figures in order to generate interest because they were concerned about the apathy of homeowners like myself.

Q Could you describe to the Court what the general feeling is among your friends and people that you know and around the West Side Urban Renewal area as to the general feeling of the area and its future?

MR. MORRIS: I will object to a general feeling about the area of other people who are not here and not witnesses.

THE COURT: We have been receiving it all along, for whatever weight it should be given by the fact finder, and we have repeatedly announced that that kind of testimony in a proceeding of this kind and before a Judge without a jury should be allowed in subject, if it is not made out properly, to a motion to strike. You, yourself, introduced evidence of what the neighborhood reaction was. You brought out testimony as to fears. I am inclined to believe that

fears do enter into what will happen to a neighborhood.

Many of these fears are groundless; many of these fears can be put at rest by those who command the attention of the restlessness that goes on and explain it away.

But to say that it does not exist and that it does not count and it is not significant astonishes me.

I must say , in all candor, to lawyers who I am sure are as much concerned with this as I am, I could not understand Mr. Maylott's answer that he didn't think that fears were facts. They are facts. I would like you to bear that in mind. To me it is a vital consideration in this entire case. You either disabuse me of it or you will by failure to disabuse encourage me in my own thinking on that score.

At any rate, it is a long way around to answering your direct objection. I will overrule it and take what this witness tells us he got from the neighborhood or neighbors who live there, who have a future there, the general talk. How firm it is, that is another matter, but I think it should be received for whatever weight we care to give it.

What were you going to say? Do you remember the question?

THE WITNESS: Yes. Well, the best way to

answer the question, I think, is to tell you that we receive any number of calls from friends about buying into the area, either buying co-op apartments or buying buildings. I can probably name half a dozen people in the last year whom I have sent over to Austin Haldenstein because I think he is a good broker to buy buildings. There is a friend of ours who has a bid on a house right on our block. It is the highest bid I have ever heard for any building on the West Side, a brownstone.

THE COURT: To wit?

THE WITNESS: $185,000 and it will probably be turned down as too low.

The couple next door to us just bought a building from Waynes, who have been very active in developing design on the West Side. They paid $165,000 this year for that building.

Joe Lapchick's daughter is a friend of ours and her husband, they are actively looking for a brownstone on the West Side. I have sent them over to Austin.

I just bought another building. It is on 80th Street, which is not the urban renewal area, but I consider it part of the West Side.

THE COURT: It would be affected by what happens on the West Side?

THE WITNESS: ~~Unquestionably.~~ Unquestionably.

Q What is the ~~addoess~~ address of your new building?

A 128 West 80th Street.

Q What do you plan to do with it?

A We intend making apartments out of it. It is currently more or less a rooming house. It is considered a Grade B tenement, Class B.

Q You don't plan to move to that one?

A It is conceivable. We have no immediate plans to move there. It is conceivable. We no longer have need for two floors in our current building. We might take a small apartment there.

MR. DOUW: Thank you. We have no further questions.

THE COURT: Mr. Gold, is ther anything you want to add?

MR. GOLD: No, your Honor.

THE COURT: Mr. Land.

MR. LAND: Nothing, your Honor.

THE COURT: Cross-examine.

MR. MORRIS: One question, your Honor.

THE COURT: Go ahead.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Mr. Goodman, is Joan of Arc, Jr. High School the same now as it was when you attended?

A Yes.

Q In the complexion of the children that attend the school and the manner in which the school is operated?

A It is too hard a question for me to answer.

THE COURT: That is what I would like you to answer. You are a professor. That is a good question.

What do you make of it? What is your estimate of that school today, what do you observe with regard to the way it is conducted, anything that would appeal to a pedagogue?

THE WITNESS: Maybe the best answer is that the school simply does not intrude on us and I have no interest in junior high school children. The representation of the woman who runs the school is well known. I went to the school.

THE COURT: That goes back a year or two?

THE WITNESS: Yes, indeed.

There is nothing that is remarkable about it to me.

THE COURT: He has not observed it enough to

give you the information.

That is excellent. There it is. There is no need for elaborate cross-examination.

What do you have?

MR. LAND: The Court's observation of one piece of testimony --

THE COURT: We will come to that later. You want to hit me now? Come on.

MR. LAND: His testimony was, are psychological fears facts and the answer was no. But the concept of the question was, are psychological fears measurable facts. That is the way I understood the question. If there is a misunderstanding I would like to bring him back.

THE COURT: Let me take a look at the testimony.

MR. MORRIS: I have it here: Are fears of people facts?

THE COURT: I wrote it down. That is exactly what he said and his answer was no.

MR. LAND: Correct.

THE COURT: You straighten it out and you bring it to my attention after you have seen the transcript. If your idea is correct then I will be satisfied. If it is not correct and if it is up my alley, then you may want to call him back.

THE WITNESS: I wish he would ask me the question. I interview on that score.

THE COURT: You interview who?

THE WITNESS: I interview people to get an idea of what their attitudes are. Fear is an attitude. It is not measurable. In fact one never knows whether fear is really felt, because you are at a distance from it. It is not the same as having somebody describe that they have five fingers which you can check. There is no way to check their fear. They describe an emotion that they feel which in fact may not be fear but something else. It is certainly a generally negative notion about an object or a subject, and one of the problems for sociologists, for psychologists, and political scientists and various combinations to get a closer idea, a more true idea, of what people mean when they say they hate something and they love something, and they adhere to something and they obey something, they fear something. Hannah ARendt has done a remarkable job describing fear, terror, hostility, and aggression. Even she wouldn't call it a fact. There is nothing that is testable anyway or ever will be unless they can somehow isolate the enzyme that apparently generates fear in the brain.

THE COURT: Professor, hold it. Let's take

very common fears, fears of children, fears that children have. It has ben proven in my court over and over again that those fears developed and became a curse and an albatross around the victim for the rest of her day s. This was a fear that was allowed to blossom and get out of hand.

If you are saying that the general words "I fear" has significance. I agree with you. It does not mean anything. But it can be analyzed and examined into and be measured as to how upsettting in the day's schedule is the entertainment of a given fear which may be absolutely without any kind of basis, really, and all you have to do is pull away that foundation on which that fear is predicated and you no longer have the fear.

THE WITNESS: Very much to the point.

THE COURT: But you know that old story, who is going to tie the bell around the cat's neck? I go way back.

Here with the mice. They said,"Who is our enemy?"

"It's the cat."

Well, they resolve. "There is only one way to put anend to our fears and the loss of our numbers and that is by putting a bell around his neck."

And the next question was,"Who is going to tie the

bell around the cat's neck?"

Now I ask you, who is going to take the time, who is going to be devoted, who is going to be deeply enmeshed in removing those unfounded fears?

Nobody. You go about your work, I go about my work.

We just say, "Well, what can you do? Too bad." The fears are there, but nobody moves in and says, "I wanted to get rid of those fears and make these people happy and let them recognize their fears are the source of all their trouble and there is no basis for the fear;, if I can help them get away from it they will have happier lives," and so forth, but there is nobody doing that. There was a time when people did concern themselves that deeply.

Is there not something to what I say?

THE WITNESS: Yes.

THE COURT: Thank you.

(Recess.)

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THE COURT: Call your next witness.

MR. GOLD: Robert Hazen.

R O B E R T G. H A Z E N, called as a witness by the City of New York, being first duly sworn, testified as follows:

THE COURT: Mr. Hazen, will you keep your voice up and will you please remember you are giving testimony under oath and you are not to volunteer any testimony at all. Just answer the question yes or no wherever you possibly can until you are asked for an explanation.

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MR. GOLD:

Q Mr. Hazen, where do you presently live?

A Brooklyn, New York.

Q The address, please?

A 57 Montague Street.

Q And how long have you lived at that current address?

A Approximately 18 or 19 months.

Q Where did you live prior to that?

A 97th Street between Columbus and Central Park West.

Q Is that commonly referred to as Park West Village?

A Yes, sir.

Q How long did you live at Park West Village?

A Just under two years.

Q What is your present employment, sir?

A I am the general manager of the New York State Urban Development Corporation.

Q And how long have you been in that capacity?

A Just over three years.

Q As general manager of the Urban Development Corporation, could you describe briefly what your duties are?

A It is really the operational division of the corporation with ~~actuvities~~ activities across the state, including New York City and smaller and larger cities around the state.

Q Are those activities in connection with housing?

A Housing, new communities and industrial and civic development of one kind or another.

Q Do they involve urban renewal?

A Yes, in many cases.

Q Prior to your coming to the Urban Development Corporation, where were you employed?

A City of New York.

Q By whom?

A The HDA. I served as commissioner of the Department of Development within HDA.

Q And for what period of time did you serve as Commissioner of Development?

A December of 1967 until the spring of 1971.

Q Mr. Hazen, as Commissioner of Development for HDA, what were your duties and functions?

A Generally to supervise the City's urban renewal program, its neighborhood planning in advance of urban renewal, amendments to urban renewal projects and the City's moderate and middle income housing construction and rehabilitation programs.

Q And you had overall supervision, basically, of new housing development in the City of New York during that period, is that correct?

A With the exception of direct public housing construction, which was otherwise handled, or luxury housing, which was obviously completely private.

Q Did that work at HDA include work in connection with the West Side Urban Renewal Area?

A Yes.

Q And are you familiar with the West Side plan and the concepts embodied in that plan?

A Yes, I am.

Q Would you describe to the Court what, exactly, the concept of the West Side Urban Renewal Plan is?

A Basically, the area in question was heavily deteriorated at the time the plan was being drawn in 1956 through 1958, approximately, that is, it had a large infusion of low income housing, particularly in rooming houses, under very deteriorated and deplorable housing conditions.

At the same time there were developments taking place both to the north and south, that is, in Park West and way downtown in the Lincoln Center area, which meant that from a planning point of view the neighborhood should have a very sound economic future.

The concept of the plan was to take a mixture of clearance and redevelopment of some of the sites, particularly along Columbus Avenue, the concurrent renovation of brownstones for family living, and the reconstruction of not only housing but schools, parks, community facilities and other like kinds of facilities, shopping, restaurants, etc. which would go toward making this a very stable neighborhood from the City's economic point of view as a tax base and to making it a preserved neighborhood in terms of its long term future as a place to live.

Q From the inception of the plan, Mr. Hazen, to the present time, or at least until the time you left

HDA, was there a concept running through this plan which related to a priority for return of persons who had been displaced by the urban renewal process in that area?

A Yes, there was.

Q And was this a policy that was followed by the City housing agency in the development of the West Side Urban Renewal Area?

A I believe so, but clearly not perfectly.

Q You say clearly not perfectly?

A Not perfectly, but the policy was in effect and was endeavored to be followed as best as possible.

Q Was this a policy of high priority in connection with the development on the West Side?

A It was in all the City's policy statements an absolute priority for families to return to the neighborhood and to the newly constructed or renovated housing provided they met the normal standards of eligibility by income, according to what the housing type might be.

In addition, there was a priority from families who might be living on a Site C to stay until perhaps Site B or Site F were completed, in which case they could then be, in effect, checkerboarded and moved into the new housing.

Q Did the plan also have in it provision for

staging of the development? Do you recall that?

A Yes, sir.

Q And do you remember how many stages were involved?

A I don't recall precisely.

Q Was there a purpose in staging the development?

A Yes, there was.

Q Can you explain that?

A It's a very large project, perhaps one of the three or four largest projects in the entire national urban renewal program involving several hundred units of new construction and displacement of as many families that inevitably and logistically had to be staged. No choice in the matter.

Q In your experience, Mr. Hazen, is it common for urban renewal plans to be modified or amended?

A Yes.

Q And was the West Side Urban Renewal Plan modified or amended on a number of occasions?

A Yes, sir.

Q And could you explain to the Court the reason for modification of the plan?

A Generally a plan is modified as new conditions come to light, principally in the economic climate surround-

ing a project area or, more particularly, the economics of the housing construction industry, which at times make original goals unrealistic and the goals need to be amended and the specific projects amended.

There are also new programs of one kind or another, whether they be Federal or State or City, which come into play and which offer new opportunities, whether it's to put in day care centers when I don't believe there was a day care program in 1958, or whether there are particular grants which become available for open space or preservation, or whether there are new environmental controls which might cause a revision or what-have-you.

There are always a series of factors which need to be reviewed from time to time in consultation with the neighborhood and with the Federal Government and the City officials to redefine the context of the plan.

Q The original plan provided for some low income units, is that correct?

A That is correct.

Q Were those low income units to be provided in a particular manner? Could you describe the manner in which the plan provides for low income units?

A There were basically three ways, although there were some sub-categories.

First was through direct construction of what you might call regular public housing to be built, owned and operated by the Housing Authority.

Secondly, it would be renovation in brownstones where there again was going to be direct renovation by the Housing Authority.

Thirdly, through a variety of programs that took various titles or captions.

It was the policy of integrating a percentage of low income families into middle income Mitchell-Lama apartment buildings as these were completed.

Q Was there a specific number of low income units provided for in the plan, to your knowledge?

A The plan document itself I am not sure of. The City's policy dating from Mayor Wagner's statements in 1962 and 1963, which were amended subsequently, called for 2500 units of low income housing.

Q Was that 2500 units a maximum number of units to be developed in the area?

A No, sir.

Q Was it a minimum number of units?

A I believe it was not generally regarded as a minimum, but there was strong commitment by the City that this would be the minimum number of units, if that were

were technically feasible to achieve.

Q Would it be fair to say that the words "at least" before "2500" would have been what was contemplated?

A I suppose that's fair, yes.

Q In connection with a particular percentage of housing mix, that is, middle income or moderate income as against low income, does the plan provide for any particular percentage of middle versus low income housing?

A Not the plan document, no.

Q Was there in the beginning of the development of the West Side Urban Development Area any particular percentage that the City was striving for in the development ofthe area?

A I don't recall specifically.

Q Did there come a time when the City spoke of a 70 per cent, 30 per cent mix in the area?

A Yes.

Q When, approximately, was that, if you recall?

A I believe it was enunciated first in 1968. It might have been earlier.

Q Prior to that, you say there was no particular percentage?

A Not to my recollection.

Q To your knowledge, did the City, in developing

the area, follow the 70/30 per cent mix?

A I believe so, yes.

Q Did the West Side Urban Renewal Plan provide for some middle or moderate income housing?

A Yes.

Q And was that through the use of the Mitchell-Lama program?

A Originally, yes.

Q Could you explain to the Court the concept of the Mitchell-Lama program?

A The program under the State Private Housing Finance Law whereby limited dividend housing companies are formed and regulated by either a State ~~of~~ or City agency, and they receive either State or City mortgage money at the cost of money to the State or City, and also receive tax abatements.

In later years, this program has been further supplemented by the use of Federal subsidies which had the effect of reducing the interest charges and therefore reducing the rentals.

Q In connection with programs available for low income housing to be used in the Mitchell-Lama projects, could you tell the Court what programs were available to the City?

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A Originally I believe there were just three direct public housing, so-called skewed rent --

Q Could you explain what skewed rentals are, Mr. Hazen?

A It means out of a hundred units in the project, if you wish to have ten or twenty per cent as low income, you set the rents according to their ability to pay and the extra charges they are unable to pay is spread among the other 80 or 90 per cent of the units and is picked up by the middle income tenants. Internal subsidy.

Q By the middle income people?

A By the residents of the development, yes.

Q Any other program?

A A State program called the State capital grant loan rent assistance program, I believe, which operated whereby the State under I think either a three or five-year lease provision would in effect pay the housing company the difference between the low income tenant's ability to pay and a market rent that otherwise would need to be charged. It had variations, but that essentially was the nature of it.

Q As the years went by in the development of the area, did new programs come into being for the purpose of creating low income units in the middle income buildings?

A Yes.

Q What were those programs?

A Basically, two additional ones -- three, really. One was the so-called interest subsidy which I referred to.

Q Is that the Section 236?

A 236. Then there was a program called public housing leasing, which simply operates with the Housing Authority leasing the units and then re-leasing it to families or else paying the housing company the difference, or a Federal program called the rent supplement program, which operates differently but with the same intent and really the same force and effect.

Q Approximately how many units were scheduled including redevelopment units, rehabilitation and conservation for the entire West Side Urban Renewal development?

A Approximately 15,000.

Q And in your experience, in your estimation, did the numbers of low income units to be developed in the urban renewal area relate to the entire twenty square block area?

A Yes.

Q In other words, in terms of overall planning of the urban renewal area, the low income units were not

necessarily restricted to the redevelopment areas only, were they?

A No, but I would not want to be misleading in that answer. At the same time there was not a concerted effort to place low income units according to some evenly thought through pattern systematically throughout every block or half block of the neighborhood as a whole, but taken as a whole the neighborhood was planned as a 20 block area with 15,000 units, approximately.

Q And in connection with the concept of developing an economically integrated and viable area, it was the entire area that was being considered, was it not?

A Yes.

Q Now, are you familiar with the market rentals in Mitchell-Lama projects in the years let us say between 1962 and 1965?

A Yes, generally.

Q Can you tell us briefly what those rentals were?

A Under $30 a room.

Q And subsequent to 1965, was there a change in market Mitchell-Lama rentals?

A Very rapid escalation.

Q So that taking the years '66, let us say,

through 1970, could you describe to the Court this rapid escalation in terms of numbers?

THE COURT: Approximately.

A On a city-wide basis I would guess it went up on an average of $15 or perhaps more per room per month per year. In other words, a project which might have been built in 1966 or '67 to rent at $50 could only be built in 1970 or '71 at $80, and this has been almost without exception true on a city-wide basis.

Q And at the current time -- by the way, in your work at UDC, do you do any work in connection with the Mitchell-Lama program currently?

A We have our own mortgage program which is equivalent.

Q Are you familiar with what Mitchell-Lama market rents would be at the present time?

A Yes, sir.

Q Can you tell us what those are, approximately?

A For a well designed project of moderate size, that is, 250 to 400 units, it would be fortunate if the project could be constructed at less than $95 or $100 a room.

Q Based on your experience, Mr. Hazen, would you say that such market rentals are feasible in the West

Side Urban Renewal area currently, today?

A Not on any of the redevelopment sites. Such rentals are feasible in some of the existing housing, but in terms of new construction on the site chosen for new construction, my judgment would be not at all, not by a long shot.

Q Would you say that would be a reason for using the federal 236 interest subsidy program in the Mitchell-Lamas?

A Yes.

Q And what does the interest subsidy program do to the rental in these Mitchell-Lamas?

A In very rough terms, it cuts the rentals almost in half.

Q And how does that come about?

A The interest on mortgages today is running under various programs between six and a half, seven and a half and up to eight percent on 40 or 50 year obligations. By bringing the interest payable through rents down to one percent, the leverage is fantastic and you get that result. It can be calculated mathematically.

Q Did there come a time when you were at the HDA that the city began to make use of the federal 236 program in the West Side Urban Renewal area?

A Yes.

Q Do you recall the projects that were involved in that?

A The federal law was amended, I believe, in 1968 to make such combination of federal subsidy and Mitchell-Lama feasible, and the law was amended largely at the city's urging and it began to be used across the city as rapidly as possible.

Q And was it used in the West Side Urban Renewal area?

A Yes.

Q Right.

Do you know in which projects it was first used?

A I don't recall.

Q Mr. Hazen, there has been much testimony in this case about the rent up of three projects in particular in the West Side Urban Renewal area and I would like to concentrate on those. The names of the projects are Leader House, Westwood and Columbus Manor.

Are you familiar with the rent up of those three projects?

A Not in an operational sense.

Q When you say not in an operational sense,

could you explain what you mean by that?

A I participate in various policy discussions concerning those particular projects but I do not have direct supervision or responsibility on the actual rent up, and I believe I had left the city at the time that at least two of them were rented.

Q Are you familiar with the policy that was used in connection with the rent up for those projects?

A Yes.

Q Could you tell the Court what policy HDA used in connection with that rental?

A The paramount policy was to carry out the relocation obligations which the city has assumed. Beyond that, the policy was to try and achieve an economic and ethnic mix in balanced proportions although this was not attempted to be defined in very specific numerical terms.

Q Now, another problem on which there has been a great deal of testimony is in connection with squatters.

Are you familiar with that problem?

A Yes, sir.

Q When were the squatters or did the squatters introduce themselves into the West Side Urban Renewal area,

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if you recall? Approximately.

A Late winter of 1970.

Q '70. And do you know what areas the squatters came into?

A Primarily in the southerly portion of the project along both Columbus and ~~Amsterdan~~ Amsterdam Avenues. There was ~~a~~ scattering in the far north.

Q Can you describe -- first of all, can you define for the Court what your understanding is ~~of~~ squatters?

A It's a person or persons who simply move in and occupy publicly or sometimes privately-owned buildings which have been abandoned or which are otherwise vacant or partially vacant.

Q And when it came to HDA that squatters had taken over certain properties, what happened at that point in connection with these squatters?

A It was a very difficult problem. It was not restricted to the West Side, although my sense of timing, looking back, is imperfect. There were squatters in many other neighborhoods of the city in Urban Renewal areas. There had been periodically over time. The city's concern both through the Law Department and HDA and Mayor's office, Police Department and other affected

agencies was to try and deal with this program realistically and to avoid either excessive, mindless force or to avoid giving concessions to squatters which they would otherwise not be legally entitled to in terms of housing opportunities.

Q What actually happened? Did the city make a survey of the squatters that were in the area?

A There were numerous meetings with representatives of the squatters, and there was more than one set of representatives. The city then endeavored to make a check on the previous housing accommodations of the families to see if they had -- if they came from a history of very poor housing, such as if they had been burned out of other properties, et cetera, and to see if the group and individuals within the group could come to some form of rental or occupancy agreement for the property in return for being provided services in the buildings until such time as they were needed to be torn down for reconstruction.

The difficulty of the situation was that federal housing subsidies were in extremely short supply and the properties had been sitting awaiting demolition and reconstruction for an extended period, but there was an inability on the city's part to move as rapidly as

it would have like to proceed with construction. So this was a holding action not alone for the squatters but also for the previous site tenants who were still in residence and had not yet been relocated.

Q Were the squatters given any relocation benefits?

A No.

Q Were the squatters given any relocation priority, to your knowledge?

A No, not to my knowledge.

Q And did the city actually enter into rental agreements with the squatter families?

A Yes.

Q And would you consider the occupancy by the squatters to be a temporary occupancy?

A Hopefully.

Q Would that occupancy be limited to the extent that they are there until the sites in which they reside are to be redeveloped?

A Yes.

Q And at that point they are subject to removal?

A Yes, and I believe that has happened in some cases.

Q In connection with the conversion of Site 4

to a combined project with low income occupancy and a school, are you familiar with that?

A Yes.

Q Did you play a part in the events that led to that conversion?

A Yes.

Q Could you describe to us those events and what actually led to that change?

A The events were that the subsidies for the moderate income housing, so-called Section 236, were, as I have indicated, in short supply and the long term feasibility, looking ahead, was uncertain at best. There was also a feeling on the part of many community representatives with whom the city met that the project had taken off economically in the sense that it was becoming more and more a fashionable middle to upper middle income neighborhood and that perhaps there was a danger that the low rent commitments would either not be met through delay or not be met through the inability of the subsidy -- that particular subsidy program to work.

At the same time there was a need expressed by the local school board for additional school facilities to replace I believe it is 209, P.S. 209.

Finally, there was still in existence at

that time, which was 1969, a direct public housing construction program which appeared to many observers to be at that point in time more feasible for achieving that objective of providing some additional low rent housing.

Based on those consideration and after consultation with Strycker's Bay and the local planning board and also the local school board, the recommendation was made from my office to the administrator and subsequently to the planning commission for a change in the designation of Site 4 from originally it had been designated for luxury housing, which was completely unfeasible, a change to public housing to be built in conjunction with a new P.S. 209.

Q Was that conversion also approved by the Board of Estimate?

A Yes.

Q Are you also familiar with the conversion of Site 30 to low income housing?

A Yes, sir.

Q Did you have any direct connection with that conversion?

A Yes, I did, in its early stages, although I had left the city by the time it was consummated.

Q Could you describe your connection with it in

at least in the early stages when you were still employed by the City of New York?

A The summer of 1970 was a very tense period in the west side. There were numerous community meetings with a great deal of emotion and passion. I don't mean danger but emotion and passion, and the issue was on meeting the low income commitment, number one, finding an effective and remarkable way to deal with the squatter problem, number two and, number three, in the context of the absence of 236 middle income subsidies and rising costs, to find a way to begin to proceed with the next stage of actual construction.

Since squatters were occupying many of the redevelopment sites, one of the considerations was, is there a way in which a site may be cleared and made available for early construction, will that go down, as it were; secondly, is there a location which is suitable for low rent housing and would the city, after careful consideration, make this a priority project for already available housing construction funds.

In the winter of '70 and early spring of '71, the recommendation was made by the HDA administrator to the housing policy board of the city, which consisted of budget director, the planning chairman, the HDA administrator,

the Housing Authority chairman and representatives of the Mayor's office, and the recommendation was made and approved by the housing policy board that Site 30 be changed in designation from moderate income or middle income housing to turnkey public housing, that is, that the originally designated sponsor would be given an opportunity to build the project and sell it to the Housing Authority; and secondly, that this project would be given top priority across the city in terms of the use of available federal public housing subsidy funds.

I believe that that recommendation was carried out by the Planning Commission and the Board of Estimate in the late spring and early summer of '71, although I had left the city's employ at that time.

end take

Q Did the legislatures in the West Side area take a position with respect to the conversion of Site 30 andSite 4 to low income public housing?

A Yes.

Q What was that position?

A They strongly supported it both in preliminary planning meetings and publicly at the time the conversion became a public issue.

Q In your opinion, does the converstion of Sites 4 and 30 to low income housing change the concept of the urban renewal plan?

A No,sir.

Q Are you familiar with the tipping concept?

A Yes, I am.

Q What is your understanding, Mr. Hazen, of that concept?

A The concept cites that point in time when a neighborhood either through deterioration or through accumulation of a vast majority of very low income families in conjunction with the deterioration, I am not saying as a result of it, that the neighborhood will become unattractive to middle income families and particularly will become unattractive to families with children of school age.

Q Based on the entire urban renewal plan as

embodied in the original plan and the various modifications, including the changes on Sites 30 and 4, do you feel that the West Side Urban Renewal area is tipping?

A Quite to the contrary.

Q Can you explain to the Court the reasons for your feeling?

A I believe the neighborhood, the urban renewal project, has been even before its completion very, very successful in stabilizing the neighborhood, increasing the property values, and making it an attractive neighborhood in which to live. The project is very strong as I believe previous testimony indicated as to property values for brownstones, it is a very fashionable and attractive place to live for young families as well as families who have lived there for some years, and it has become a very attractive place for low income families who are fortunate enough to find places in the public housing already built in the neighborhood.

Q Mr.Hazen, in your work with UDC currently have you been involved in a proposal for the development of Site 4?

A Yes.

Q Is that recent that you have been involved in that proposal?

A It was during 1972.

Q So you are still familiar with the West Side area at least certainly through 1972, is that correct?

A I believe so.

MR. GOLD: Thank you. That is all I have.

THE COURT: Mr. Gold, that was very direct. I got the full import. That shows preparation. You knew in what direction you were going.

Mr. Land, is there anything that occurs to you?

MR. LAND: Nothing at all.

THE COURT: Mr. Douw?

MR. DOUW: Nothing, your Honor.

THE COURT: Cross-examine.

CROSS-EXAMINATION

BY MR. MORRIS:

Q Other than your contact with Site 4 which you described a moment ago, did you do anything to follow the progress of the West Side Urban renewal project subsequent to the spring of 1971 when you left the agency?

A Yes. I would say yes.

Q What did you do?

A Part of the work of the Urban Development Corporation was to develop housing projects in cooperation with the city and from time to time we have conversations

with city officials about potential projects which the Urban Development Corporation might undertake. In the context of those discussions we have on several occasions reviewed the current status of the remaining unbuilt sites in the West Side to see if there is any way in which we might be helpful.

Q Are you familiar with the numbers of low income housing units that have already been built and are in operation in the West Side Urban renewal area?

A I believe so.

Q Tell us what they are.

A I believe it is on the order of 1700 units with approximately another thousand, a little more, under planning or design including Site 4, and Site 30.

Q How about the perimeter public housing projects like 830 Amsterdam Avenue, the Douglas addition and de Hostos?

A There are a number of publicly-aided projects on the perimeter.

Q I am talking about low income housing.

A Yes. I would say I am familiar. You ask how many?

Q Yes.

A Excluding Douglas houses which is five blocks from the perimeter, I would guess it is on the order of

perhaps a thousand.

Q In addition to the 2700 or 2800 that you mentioned before, is that right?

A That would be my guess.

Q Was the conversion of Sites 4 and 30 from middle income to low income housing a change in the urban renewal plan?

A There was a change in the site designation not a change in the text of the plan, in my judgment.

Q In your judgment what?

A It was not a change in the text of the urban renewal plan development itself. It was a change in the re-use designation of particular redevelopment sites within the plan area.

Q In the past, prior to the change in Sites 4 and 30, weren't such changes in the use provided for in the plan regarded as changes in the plan which led to actual changes being proposed and approved by the Board of Estimate?

A These changes in designation were approved by the Board of Estimate. I don't recall the circumstances surrounding specific approvals of previous changes.

Q Doesn't the siting of Site 30, the location in which Site 30 has been placed, create a concentration of public housing in that area?

A No, sir.

Q What surrounds the Site 30 area? Tell me what is immediately adjacent to the site on the west.

A Brownstones, I believe.

Q You better look again. Isn't it Stephen Wise houses?

A I don't know. You may be right.

Q I am right. If you look at your map --

A The map doesn't designate, unfortunately.

Q Do you know where Stephen Wise houses are located?

A No, sir.

Q Do you know there is a public housing project immediately across the street from Site 30?

A Site 31?

Q Across the street.

A I don't know.

Q How can you answer my question before and say it does not create a concentration of low income housing when in fact it is immediately adjacent to a 400-unit item of public housing and immediately across the street from another large public housing project, and you are proposing to put Site 30 there, and you don't know what the surrounding ones were and yet you say you think it is not an over-

MR. GOLD: I have nothing further.

concentration of public housing?

A The southerly end of the renewal project both along Columbus Avenue and in terms of brownstone renovation and in terms of as yet unbuilt sites in my judgment is, and will be, very well balanced as to middle income and low income.

I do not accept, sir, the definition of concentration that says it is only immediately across the street.

For example, I do not believe Park West Village which is 1800 units, is a concentration of middle income housing because it is in the context, in a neighborhood, in which there is low income housing and of new construction and of previous construction. I think you have to have a context for dealing with the question of concentration. My judgment is that Site 30 does not lead to an over-concentration of low rent housing in that portion of the project or in the project as a whole.

THE COURT: Even conceding the low rental projects that Mr. Morris mentioned which are in the immediate vicinity of Site 30?

THE WITNESS: Yes, sir.

Q Isn't it true that the squatters that you described before moved in illegally?

A They certainly didn't have permission.

Q Did they have the right to move in?

A I don't know the precise legal definition. I would suppose not.

Q After the squatters moved in, did the city representatives meet with them and negotiate with them?

A Time and time again.

Q They did negotiate. Did the squatters present demands to the city?

A Every neighborhood group in the city presents demands to the city.

Q I am talking about these particular squatters.

A Yes.

Q By what right did the squatters present their demands?

A I presume as citizens.

Q As citizens?

A Maybe I don't understand the question.

Q The question is: If they moved in without having the right to move in, but simply arrogated the property to themselves, what right did they have to make demands of the city when these were city-owned properties?

A I don't connect the two. It seems to me they would have a perfect right to make requests or demands or suggestions under any circumstances.

Q You think they had the right to make demands?

A I don't believe they lose their constitutional privilege by virtue of moving in.

Q Were the political leaders in the area involved at the time you were negotiating with the squatters?

A Yes. To various degrees.

Q That was a politically involved situation?

A Yes.

Q Did the city as a result of the demands of the squatters enter into rental agreements with the squatters?

A Yes.

Q Did the legitimatizing of the squatters' occupancy by giving them rental agreements give them relocation rights that they would not have otherwise had in the area?

A No.

Q They received no relocation rights?

A Not as to new housing, no.

Q Are you saying that they can be removed from the occupancy of these buildings that they presently occupy and would not have the right to be relocated into the area?

A That's correct.

Q You are sure of that?

A Yes, I am sure of that.

MR. MORRIS: That is all.

THE COURT: Anything further, gentlemen?

(Pause.)

Mr. Hazen, you are excused.

Next witness.

MR. GOLD: David S. Olinger.

D A V I D S. O L I N G E R, called as a witness by the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLD:

Q Mr. Olinger, where do you live currently?

A I live in Rockville Center, New York.

Q Where are you presently employed?

A I am employed by the New York State Urban Development Corporation.

Q In what capacity, sir?

A I am in the office of the general manager. I supervise projects in planning and operational projects, problems around the State.

Q Do you work with Mr. Hazen in that connection?

A Yes, I do.

Q How long have you been at UDC in that capacity?

A Since December of 1972.

Q Prior to coming to UDC where were you employed?

A I was employed by the City of New York Housing and Development Administration.

Q In what capacity there?

A Deputy Commissioner of Community Development.

Q How long were you employed as Deputy Commissioner of Community Development?

A From December 1967 to December 1972.

Q In connection with your work at HDA as Deputy Commissioner, what exactly were your functions?

A I was operationally in charge of the New York City Urban Renewal program.

A I was responsible for carrying out the planning and development activities with regard to the urban renewal program.

Q Had you been employed at HDA and its predecessor HRB for a period of time prior to 1967?

A Yes. I was first employed by HRB, the predecessor agency, in October of 1962.

Q In what capacity did you start at HRB?

A I started as an assistant planner.

Q Before you became Deputy Commissioner for Community Development, what capacity were you working in?

A I was bureau chief of the Bureau of Project Development.

Q Could you briefly tell the Court about your educational background?

A I have a BA from Brooklyn College, majoring in urbanism, and a Masters in urban planning from New York University.

Q Have you done any teaching, Mr. Olinger?

A I have taught at Pratt Institute in Brooklyn .

Q What kind of courses?

A An urban renewal design course at Pratt for a semester.

Q In connection with your work at HDA from 1962 to 1972, did you become familiar with the West Side Urban Renewal plan?

A Yes.

Q Do you understand the concept of that plan?

A Yes, I do.

Q Can you tell the Court in your own words what the concept of that plan is?

A The concept of the plan was to rejuvenate a 20-square block area of the city. The view was that that area could be made into a showplace for the nation as to what urban renewal could do. The planning concepts were that the good brownstone buildings on the interior streets would remain and be rehabed. The buildings on the avenues, in

the more dilapidated condition would be demolished and new construction would take its place.

The area was expected to provide homes for a variety of people and also a full range of community services to service those people.

Q Did the West Side plan contemplate redevelopment, that is new construction rehabilitation, and conservation?

A Yes, it did.

Q To your knowledge, sir, was a specific number of low income units provided for in the West Side Urban Renewal plan or in any of its modifications?

A There was a statement by the then Mayor Wagner --

Q When was that statement made?

A Roughly in 1962 or 1963, and this statement set forth the goal of approximately 2500 units for the West Side Urban Renewal area.

The urban renewal plan itself did specify certain sites for public housing, and the goal was to be carried out in part by having low income units included in the middle income buildings. Through its subsequent changes and amendments there were changes and amendments with regard to the numbers and to the sites that were to be selected for public housing.

Q Do you feel that the various changes and amend-

ments were consistent with the concept of the Urban Renewal Plan?

A Most certainly, in that the concept of the urban renewal plan was that there would be a variety of living types, a variety of buildings so that people would have housing choices, and the area would be available to a variety of income levels.

Q Are you familiar with the conversion of Site 4 in the West Side Urban Renewal area to low income housing?

A Yes, I am.

Q Did you play a direct role in that conversion?

A Yes.

Q You did?

A Yes.

Q Can you explain to the Court the facts and circumstances which led to the conversion?

A The circumstances that led to the conversion were a combination of a need for more low income apartments partially because of concern as to whether the subsidies that were previously being provided would be available for the more than low income housing, the low income apartments in the moderate income house, and the need for a school that was being proposed for the same site, and an opportunity to get on to meet both needs at the one site, namely Site 4.

My office, if I may, was the planning office for urban renewal amongst other things, and it was as a result of our analysis that Site 4 was proposed for low income housing.

Q Does the change in Site 4 from what was previously luxury housing to low income housing in your opinion change the concept of the urban renewal plan?

A No. I am not sure that question is right. I believe that luxury housing had previously been dropped from the plan because of economic problems -- fairly obvious conclusions that as the Mitchell-Lama market, the luxury market, became higher and higher, it became obvious that such housing would not be marketable in the area. I think prior to the time there was any discussion of public housing on the site moderate income was proposed for the site. The plan was subsequently changed from a moderate income site to a public housing site and the school.

Q Getting back to my question, that change from moderate income or whatever it was before the change to public housing, would that still be consistent with the concepts embodied in the urban renewal plan?

A Taken in the context of the entire area, most certainly.

Q When one makes changes or decides on reuses of

particular sites, those are taken in the context of the entire area, are they not?

A That's right.

Q Are you familiar and were you involved with the conversion of Site 30 --

A Yes, I was.

Q -- to low income housing?

A Yes, I was.

Q Can you describe the events that led to that?

A Well, the events that led to the change of Site 30 again were very similar to the situation in Site 4, lack of subsidies that would produce low income dwellings in moderate income buildings, relocation needs, families on site and awaiting space. That was a major factor. The units that were available after assessing each site, assessing the projects, the view was this Site 30 was the best location to proceed with public housing.

Q Were both the changes for Site 4 and Site 30 to your knowledge approved by the Board of Estimate?

A Yes, they were. Site 4 in 1971 and Site 30 in 1972, I believe.

Q Did you appear at the Board of Estimate on behalf of the Housing Development Administration in support of the conversion of Site 30 to low income housing?

A Yes, I did.

Q Did there come a time when the city attempted to make use or made use of the Federal 236 interest subsidy program?

A Yes.

Q When was that?

A I believe the program came into law in 1968 insofar as being able to be linked with the City's own Mitchell-Lama program.

Q There were several projects for which the 236 subsidy was used. Do you know which projects those are?

A It was used in a number of projects in the West Side Urban Renewal area. I believe it was proposed for most of the other projects in the urban renewal area and for various projects across the city.

Q In connection with the tenanting in particular of Columbus Manor, Westwood House, and Leader House, did you play a role?

A Yes, I was involved.

Q How were you involved?

A I had various meetings with the rental agents. I had meetings with community groups.

Q When were those meetings, if you remember, approximately?

A I believe that this was the spring of 1972.

Q Go ahead.

A Well, the specific nature of the involvement had to do with the priorities that would be pursued in tenanting the buildings. For the first time the Department of Social Services had changed its schedule of rents with regard to those rents that could be paid by its clients, and we found ourselves in the position where people who had waited for years for apartments on the West Side would now be eligible by reason of their being able to pay the rents that these buildings commanded.

Q Were those people who in some cases were receiving welfare assistance?

A That is correct.

Q In tenanting these three buildings, did you make a determination as to the possibilities of welfare recipients being tenants?

A Yes, I did.

Q Were the buildings tenanted in such a manner that there were some welfare recipients over and above the 30 per cent units for leased public housing?

A Yes, there were.

Q Was that a result of --

THE COURT: Don't lead him.

Q What was that a result of?

A It was a result of the determination, the decision, to carry out commitments that had been made by the City and expressed in public statements by Mayors, by City officials.

THE COURT: To the effect that --

THE WITNESS: To the effect that people who were living on the site had a first priority for relocation in new buildings to be built within the area.

Q Did that policy take precedence over another policy which talked to a 70 per cent middle or moderate income against 30 per cent low income in a particular development?

A We considered the rent-paying an ability of the people who were going to tenant the building as being the primary consideration. At about that time there had been a court case to the effect you could not look behind a tenant's source of his rental income and, yes, that did take priority.

Q Mr. Olinger, are you familiar with the tipping concept?

A Yes, as a planner I am.

Q Could you explain to the Court your understanding, as a planner, of that concept?

A Generally the concept refers to an area that

is undergoing deterioration, an area where the physical conditions in terms of the buildings, the structure, the streets are becoming worse and the schools are becoming worse, where there is a certain point where the area changes in its makeup in terms of economic makeup or in terms of ethnic makeup; all of a sudden the people that were formerly the residents of the area leave en masse.

Q Based on that understanding and the development of the West Side, including the West Side Urban Renewal area to date, and including the conversions of Sites 4 and 30, and the tenanting of the three buildings, Leader House, Columbus Manor, and Westwood House, in the manner you have described, do you have an opinion with respect to whether the West Side Urban Renewal area is tipped?

A My opinion --

THE COURT: Do you have an opinion?

THE WITNESS: Yes, I do.

Q What is that opinion?

A My opinion is that the West Side has improved vastly as a living area in the last five to ten years and has become more attractive to middle income families, to families of means, that can afford to live in brownstones, and I do not believe that the redesignation of Site 30 or Site 4 is consonant to a tipping situation.

MR. GOLD: I have nothing further.

MR. LAND: I have nothing further.

MR. DOUW: I have nothing.

THE COURT: Mr. Morris. You may cross-examine.

CROSS-EXAMINATION

BY MR. MORRIS:

Q What kind of analysis did you do to support the change in designation in regard to Site 4 and Site 30?

A We did an analysis of the total urban renewal area considering the number of apartments in middle, luxury, and low income categories throughout the area. That would include the redevelopment sites, the rehabilitation sites and the sites -- the buildings that were to be conserved. Our findings were that the area was predominantly geared as a middle or upper income area.

Q Did you have any surveys made?

A We used source material that had been based on surveys, census material, material that had been collected over the course of time either by my office or by the Planning Commission.

Q Did you make, did your office or you make, any surveys yourself with relation to this change in the use of Site 4 and Site 30?

A At this particular time I do not think we did.

We went from house to house.

THE COURT: From your extensive work in urban redevelopment an allied or kindred projects you know what a survey is. Did you undertake such a survey of this area with which we are concerned in this suit?

THE WITNESS: We did not do field work.

Q Do you recognize that by the conversion of Site 30 from middle to low income housing you are creating a concentration of low income housing on that particular block and in that immediate area?

A I know that Stephen Wise is immediately to the left of the site.

Q And there is public housing immediately across the street as well, isn't that so?

A Site 31 is not public housing.

Q But there is public housing immediately across the street. isn't there?

A I don't believe so.

THE COURT: Mr. Morris, can you show him some exhibit that will enable him to recapture what he remembe of that particular area?

THE WITNESS: Your Honor, I have something.

THE COURT: The witness has something.

THE WITNESS: Immediately across the street i

Site 31.

THE COURT: Is that all right, Mr. Morris? Is that so?

THE WITNESS: Site 31 is St. Martin's Towers, which is a Mitchell-Lama cooperative of 179 units, 159 being Mitchell-Lama 236.

Q I am talking of Site 25.

A Site 25 is in the next block.

Q But it is immediately across the street from Site 30, is it not?

THE COURT: Is that right?

THE WITNESS: It is diagonally across the street.

Q But it is across the street?

A Yes. Site 25 is a public housing site of 168 units.

Q So you have Stephen Wise houses immediately adjacent to Site 30 with 399 units and Site 25 diagonally across the street from Site 30 with how many units did you say, 167?

A That's correct.

Q And then you proposed and agreed that it is sound to put an additional 160 units on Site 30 immediately between those two projects?

A Between the three projects that is a total of

a little over 700 units of public housing.

Q On one block?

A Out of a total of something like 15,000 units within the 20 square block area. I don't believe that 700 apartments in an area in New York City can really be called a concentration. There is really probably twice that amount in the two blocks you are discussing in moderate income housing.

Q So you do not regard that as an over-concentration of public housing?

A No, I do not.

Q In connection with the conversions of Site 4 and Site 30, did you consult the local politicians before making the decision about approving the conversion of those sites?

A They were consulted, yes.

Q Did they participate in the decision that was made to make the conversion?

A The decision was made by the City and not by the elected officials. They were cognizant of it and it was discussed with them, yes.

Q Did you consult people in the area and get opinions of people who had made investments in the area before making the decision to make these conversions?

A I personally met with both the ~~Strycker~~ Stricker's Bay group and the CONTINUE group.

Q Was there opposition to the conversion?

A Yes, there was.

Q Was the opposition wrong and were there many people opposing it?

A The organization, the CONTINUE organization, opposed the conversion.

Q Did you get written approval from anyone in the area to the conversion for the change from middle income housing to low income housing of Site 4 and Site 30?

MR. GOLD: I object to the question. I don't know what Mr. Morris means by "written approval of anyone in the area."

THE COURT: That is a little vague. Reframe it.

Q Did you get written approval from any of the sponsors in the pilot project area, in the West Side Urban Renewal area, whose contract called for written approval to any change in the other plan?

A No, we did not.

Q You did not get the written approval?

A That's correct.

End 5

Q Now, in connection with the conversion of Sites 4 and 30, did you analyze the social issues that were involved in the question at the time you made the determination?

A In terms of the housing implications of those social issues and the relationship between the population and the services in the area, yes, we did.

Q Can you tell us what analysis you made and what determinations you made with respect to those social issues?

A We considered the total number of units within the blocks, we considered the number of units that were available for luxury housing, the number of units that were available for middle income families, the number of units available for low income families. Against that we did a rough overview of the services that were available on the west side. We tried to take into consideration the effect, because we understood it, and we tried to mitigate against it that additional sites for public housing might have in the neighborhood, and that was the kind of basis and the kind of work we did.

Q Were you informed as to the number of low income housing units there were in the area as a result of the conversion of these two projects?

A Yes.

Q How many were there?

A The total number of low income units within the 20 block area is 25 or 2600. That's to be built and already constructed.

Q And what?

A To be built, already constructed, includes rehabilitated units, includes units in moderate income buildings.

Q Does that include the conversion of Site 4 and Sits 30 as well?

A Yes, it does.

Q Would you give us the breakdown of the total of 2500 units? How did you arrive at that total?

A I think I said 2600, but it's broken down as follows: There are 800 -- I have to do it on a site by site basis.

THE COURT: All right, take your time. It's an important point.

THE WITNESS: There are 168 built at Site 25, low income units; there are 399 at Site 29, that is Stephen Wise; there are 158 at Site 38; there are proposed new construction 270 at Site 4. That is 430. There are 200 in rehabilitated low income units. The remainder are

proposed or are presently included in the moderate income units.

THE COURT: And that amounts to what?

THE WITNESS: That figure is 1370 for a total of 27 -- just over 2700.

Q You testified that there were 200 units of rehabilitated public housing?

A Yes.

Q I show you Defendants' Exhibit S in evidence, which is the stipulated agreement between the City and all the attorneys of the number of units in the project, and ask you to look at the rehabilitated public housing and tell me how many units there are there.

A The exhibit says 276.

Q So that there are 276 units, not 200 of the rehab, is that right?

A Evidently.

MR. LAND: Excuse me. What page is that?

MR. MORRIS: Page 3 of Defendants' Exhibit S.

Q 276 units of public housing. And you testified that there were 200. Are your other figures as accurate as that?

A If there has been a stipulation, I assume --

Q There has been a stipulation, yes.

A Okay.

Q Now, did you include within that figure the number of public housing units in the perimeter public housing units such as the De Hostos House, 830 Amsterdam Avenue and Douglass Addition?

A No, I have not.

Q If you added those, how many additional units would there be?

A I do not know how many units are in those projects. I haven't worked with the project for a couple of years.

Q As a matter of fact, did you also include the number of welfare families that you testified to before who were occupying the buildings in excess of 30 percent in Leader House, Columbus Manor and Westwood House? Did you include those?

A No.

Q Did you include an item for the number of low income families occupying the 236 housing in the area?

A Yes, I did.

Q You did include that? How many did you include for that?

A 1300 and change.

Q And you included those as low income items?

A That's correct.

Q Now, with respect to the squatters, did you have anything to do with their moving into the area?

A No.

Q Was it done at a time when you had supervision of the area?

A Yes.

Q Would you tell us what the situation was with respect to the squatters?

A The buildings were occupied by families that were squatter families who came from various areas, predominantly the west side.

Q Did they have any right to move into the area?

A I would say not

Q And did you do anything about seeing that they were removed since you had supervision of the project?

A We felt that under the circumstances --

Q No, did you do anything about it?

A Yes, I did.

Q What did you do?

A I met with them, I met with other groups. We tried to determine what we could do to assist the people and we tried to do what we could to meet our agency's

responsibility.

Q Were the decisions what to do with the squatters with the political leaders in the area at that point?

A There were discussions held with them to bring them up to date as to the situation, yes.

Q Was what was done their response to the requests made by the political leaders, politicians in the area?

A Generally I believe that the political leaders did not object to what was done. I can't say that I remember, but each individual person felt at the time.

Q What was the solution? Did the city enter into rental agreements with the squatters?

A Yes, the city did.

Q And do the squatters have relocation rights when they are relocated out of the area?

A No, the squatters do not, to my understanding.

Q Did you have charge of that? Did you actually control that at the time it occurred?

A Basically the agreements were done -- were carried out with the Department of Relocation. I was certainly involved in the decision-making process, yes.

Q When the squatters took possession of these buildings illegally, wasn't it incumbent upon you to

call the police and see they were taken out of the buildings?

A The squatters were not a new phenomenon in the City of New York. Every Urban Renewal project has had squatters. The city's approach to the squatter problem has been one of trying to deal with the people reasonably, not bring police in and develop situations where bodily harm and injury could take place. We choose to meet with them rather than to call the police.

Q What were the substantive issues in controversy regarding the conversion of Site 4 and Site 30 from middle income to low income housing?

A There was a view put forth in certain sections of the community to the effect that the area would become more low income in nature and that it would bring about a situation of tipping point. I am not sure that the term was in popular use in the area at the time.

Q What exactly did you have with the West Side Urban Renewal area after you left the agency in December, 1972?

A I had from time to time made studies for UDC in the West Side with regard to specific sites, generally.

Q But specific sites, but what did you have to

do with the entire area, the whole West Side Urban Renewal area?

A Since '72?

Q Since you left the agency, yes.

A Very little.

Q Very little?

A Right.

Q Therefore, are you familiar at the present time with the current situation that exists with respect to site conditions and the circumstances of the West Side Urban Renewal project as of today?

A I know that no further construction has taken place and I have some feeling as to the area and how it appears and what has been built and what hasn't been built.

THE COURT: Beyond that you have no official cognizance of what has taken place in the last couple of years?

THE WITNESS: Officially, no.

MR. MORRIS: That's all.

MR. GOLD: Your Honor, one or two ~~questions~~.

THE COURT: Surely.

GWJW 9 Olinger-redirect

REDIRECT EXAMINATION

BY MR. GOLD:

Q In connection with the conversion of Site 30 to low income housing, did you and the HDA at that time have a chart similar to this with numbers of the units already constructed in the area, those planned for the area, those in rehabilitation jobs? Did you have such a chart?

A Most certainly.

Q And did that show the numbers of low income units?

A Yes, it did.

Q At that time?

A Yes, it did.

MR. GOLD: That's all. Thank you.

THE COURT: Mr. Land.

MR. GOLD: Your Honor, Mr. Land points out to me in my question I didn't make reference to the fact that I was talking about a chart similar to Exhibit S.

THE COURT: He happens to be right.

MR. GOLD: He is right and on review I make that correction.

THE COURT: You can't go too far wrong in

listening to him. He has a pretty good batting average.

MR. GOLD: Thank you.

THE COURT: Mr. Morris, anything further?

MR. MORRIS: That's all, Mr. Olinger.

(Witness excused)

THE COURT: Gentlemen, it is now three minutes before 5:00 o'clock. Do you have a witness?

MR. GOLD: No.

THE COURT: No other proof right now. Make it available at 7:30 this evening, May 14. I gave you warning of that last week. I want to get going. Have your proof. Let's go forward at 7:30. We will sit until 9:30, gentlemen.

Then tomorrow morning in Room 36, don't forget, at 10:00 o'clock, and we will carry on a full day until 5:00 or 5:30.

Announce a recess until 7:30.

THE CLERK: Recess until 7:30. All rise.

(Dinner recess)

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Trinity Episcopal School Corp., et al.

vs. - 71 Civ. 4315

George Romney, et al.

New York, New York.
May 14 1974- 7:30 P.M.

THE COURT: Call your next witness.

MR. GOLD: May I approach the bench for a moment?

THE COURT: Come into the robing room, please. Off the record.

(Discussion off the record in the robing room.)

(In open court.)

THE COURT: Mr. Gold has asked me to allow someone from his office to sit in because of an emergency matter he has that the Court understands fully, with the distinct understanding that Mr.Gold is to absent himself from this proceeding in order to take care of the matter that has suddenly arisen and to return when he in his good conscience feels that things enable him to return to the arena.

We leave that to his good judgment.

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In his absence he wishes me to recognize for the purpose of participating in a court to which he is not admitted, the name of Assistant Corporation Counsel Robert Liner.

Mr. Liner, you have been around since the beginning, haven't you?

MR. LINER: Yes, sir.

THE COURT: I am quite sure you can navigate and do the best you can while Mr. Gold is absent.

Very well. He is received and permission is granted.

Mr. Gold asked for this permission in the robing room. Permission is granted for Mr. Liner to function while Mr. Gold is absent from the courtroom.

MR. GOLD: Thank you.

(Mr. Gold left the courtroom.)

THE COURT: Mr. Douw.

MR. DOUW: I call to the stand Mr.Bernard Wohl.

B E R N A R D J. W O H L, called as a witness by Strycker's Bay, having been first duly sworn, was examined and testified as follows:

THE COURT: Mr. Wohl, please keep your voice up so the attorneys can hear you. Remember you are giving

testimony under oath and that this is not a place to elaborate unless you are called upon to elaborate. You will answer yes or no wherever possible.

Do you understand that?

THE WITNESS: Yes.

DIRECT EXAMINATION

BY MR. DOUW:

Q What is your profession?

A I am a social worker.

Q Where do you work?

A At the Goddard Riverside Community Center.

Q Where is that located?

A On the west side of Manhattan in three sites: At 647 Columbus Avenue between 91st and 92nd Streets; 114 West 91st Street; and my office, which is a brownstone, 161 West 87th Street. Our fourth site is our camping program which is in Rifton, New York.

Q Other than the camp are the three sites, the addresses you gave, located within the West Side Urban Renewal area?

A Yes.

Q What is your position at the Goddard Riverside?

A I have been executive director.

Q How long have you been that?

A Close to two years.

Q Describe to the Court your educational background.

A I have my Masters degree in social work and I have majored in group work and community organization and have worked in settlement houses and community centers since my graduation.

Q What is the date and place of your degree, your Masters in social work?

A The date would be June of 1953, and it was at the University of Buffalo graduate school of social welfare.

Q Couldyou tell us the area of the city that your community center covers?

A Well, our primary service would be 72nd Street on the south,96th Street on the north,Riverside Drive on the west, and Central Park West on the east.

Q Mr. Wohl, could you explain, and I ask you to explain in some detail, what Goddard Riverside does?

A Well, Goddard Riverside is one of the five larger multi-function multi-service agencies in the New York Settlement Houses, Henry Street, University, Hudson Guild, Lenox Hill, andGoddard Riverside would be one of five of the multi-function,multi-service agencies.

We basically work with people from birth to death: Preschool programs, Head Start,Day Care, after

school programs for youngsters, programs for senior citizens, working out of the local schools with youth programs as well as team programs in the evening. We run our own camping program.

We have a creative arts program. We are involved in the counseling of people, in job placement, working with the City around the neighborhood youth corps, placement of young people. That is just a very abbreviated description.

Q Would you describe in more detail, if you can, the services you have at Goddard Riverside for young people?

A Our preschool program, which has close to 150 families, 150 youngsters of 150 families, works with young people in day care where we provide an educational experience for young people, preschool youngsters, while parents are usually at work.

We have another preschool program, a Head Start program where we have 70 youngsters half a day or 140 in one day.

Our after school program, if you are talking about youngsters, basically works with children from the neighborhood after school in club programs, craft programs, in athletic programs, incounseling programs, working with their parents; we work with young people in the schools

while they are in the school.

We have special in school as well as out of school programs. For example, our youth in the local public schools use our camp on a year-round basis. They go up there with their teachers and paraprofessionals, and our staff and our job is to extend curriculum for youngsters from a rural area that is not possible for them in an urban area.

We work in conjunctionwith the Board of Education on that.

Our youth programs in the evenings and weekends is with older teen-agers. If you ask me what the program is about, its values, how you get young people to take responsibility for their own lives and get them involved in programs that affect their lives. It is not just to keep them busy, a custodial care program as many people would term a settlement house or community center.

They also are in our camping program in the summertime as well as weekends and we work with the Board of Education there too in terms of peer leadership.

You ask the question around youth programs, I believe.

Q Could you explain what you mean by "peer leadership"?

A We have adults and we have standards as an agency, but what we are trying to do more than anything else is to try to get young people in our community to begin, in a sense, to put pressures on their peers around their behavior, around saying to young people, "You can have all the freedom you want if you are willing to take the responsibility that goes along with that."

So when I say our program is within a framework of values, we want young people to come in. I don't want it to be my center or our board of directors. We want young people to come in and plan and develop and extend themselves as human beings. The more responsibility they take the better job it is we think we are doing.

Q Could you describe in more detail the programs that Goddard Riverside has for elderly people?

A In conjunction with the City of New York Department of Social Services, we run a senior citizens program five days a week, and sometimes in a special program on weekends.

The senior citizens are in our community center from sometimes 8:30 in the morning or 9:00 o'clock in the morning un til 3:00 or 3:30 in the afternoon.

The programs are related to their basic educational and recreational, and are social in nature, there

is counseling that goes on with senior citizens in terms of problems they confront, whether it is Social Security programs or problems around housing or problems around their specific individual needs; there are craft programs, dance programs, there are ceramics programs for senior citizens. There are discussion groups. They have worked also on legislation that affects the welfare of senior citizens in our community; they are also trip programs for senior citizens.

We don't see our program as limited to the four walls of an agency, the more we use the city also we think that is the better job we are doing.

In that respect our programs for senior citizens extend to our camp where the whole month of June and the whole month of September is set aside for senior citizens to use it just like youngsters would use a camp, and we are also hoping that we can combine senior citizens in the future if the facilities are available --

Q You have mentioned the camp facilities both in terms of what it offers to young people and what it offers to the elderly. Is there anything you wish to describe about ~~ca mp~~ camp facilities?

A It is used by a variety of groups in the

community. It is used by the police. We have a very good relation with the police and we work with them in a project called "Operation Friend" where we get police and young people in the community to sit down and talk with one another rather than walk away from one another, and begin to understand that each of them have problems, and how the job of a community center is how you get people to live together as human beings in the community.

We have worked with the local community board in extending our camp for them to use for the extension of curricula.

Colleges have come to us and asked us if they could use our camp for conferences on weekends, and other senior citizens have used our camps on weekends.

We also have another program with the board of education where they use our camp. Our camp is used -- I don't know whether I mentioned this, but it is not just a summer camp, it is used 40 weeks a year.

MR. MORRIS: Your Honor, I think we are going too deeply into the work of this center. We have heard what the work is in general and I would respectfully suggest that the details that we are getting now is beyond --

THE COURT: I presume Mr. Douw has in mind

trying to show the depth of the undertaking and there it is that depth and concern that this witness brought to the problems that Mr. Douw is going to develop.

Is that it?

MR. DOUW: That is correct.

THE COURT: I think you have almost exhausted it, haven't you?

MR. DOUW: Yes.

THE COURT: Have you ever heard of the University Settlement?

THE WITNESS: Of course.

THE COURT: What do you think of it?

THE WITNESS: Well, I know the director. I think it is doing a good job. I think it is having its problems like all settlements.

THE COURT: I have been identified with it for 40 years. I think I know something about the problems.

How about the parents of the children you are trying to help? We had an ugly experience with parents coming up and opening up a dirty mouth and getting fresh. They chased away some of our oldtime help, trustees, directors who won't have anything to do with them . This pretty near gave the settlement a black eye, and it is limping along now as a result of that ignorant, stilted, limited, screeching

bunch of loudmouths.

Have you had such an experience down there?

A No, I have not. Thank goodness I have not.

THE COURT: Go ahead.

Q Does Goddard Riverside have income limitations as to the people that it serves?

A No. We serve everybody who lives in that community who wants to be served or who wants to be a party of our agency.

Q What are your sources of funding?

A Well, we have about three or four major sources of funds. Part of our funds come from the Federal Government. Our whole pre-school program is basically Federal, City, and ~~State~~ funded. The rest comes from the individual contributions of people who have been part of the settlement for 20, 30, 40, 50 years, as well as private foundations who fund specific projects, and we are working with the senior citizens or youths.

The fourth source would be certain fees for very special programs like camping, but all of our fee programs are based on a sliding scale. Nobody is turned away from our agency because of their inability to pay.

Q What is the size of your budget currently?

A In the neighborhood of $900,000.

Q Does Goddard Riverside maintain relationships with other institutions in the community and around the West Side Urban Renewal area?

A Yes. I think I have already mentioned some in terms of educational institutions. We serve on the community health planning board. We are a member agency of Strycker's Bay Neighborhood Council. We work with the 24th precinct community council. That is the local police community council.

Probably a myriad more that don't come to mind at this particular moment, but we work with the local independent schools as well as the public schools.

THE COURT: I think I have that picture, Mr. Douw.

Will you now come to the heart of the purpose for which this witness was called?

Q Where do you live?

A I live on 77th Street.

Q What address?

A 20 West 77th Street.

Q Am I to take it from your testimony you spend a great deal of testimony in the West Side Urban Renewal area?

A A great deal. I walk to work.

Q In the evenings as well?

A Yes.

Q Do you spend time on the weekends in the area?

A Yes.

THE COURT: You are a married man and you have children?

THE WITNESS: I am and I have children, two children.

Q I would like to ask you several questions about the area, Mr. Wohl.

In walking around, in ~~you?~~ your observations of the area, what can you describe to the Court about graffiti? Please tell us what your observations are on that subject?

A Well, I have seen graffiti in the neighborhood but -- I have seen graffiti all over the City of New York. I don't see it as a critical or crucial problem in our community.

If you ask me some specific question about it --

Q Do you see more than you do in other parts of the city?

A No.

Q Do you see less?

A Yes, compared to some parts of the city I have been in.

Q What do you observe so far as garbage in the streets, the trash and litter in the streets?

A On 87th Street, the brownstone block where I work, it is like most of the other blocks. It is either in a can down below or in a bag and when the time comes it comes out. Sometimes there is a banana peel or something like that. It has not been of utmost --

Q Is garbage or litter generally strewn in the street especially on 87th Street?

A No.

Q Do you have any special problems, again referring to 87th Street, with respect to people who live on the block, any problems with the neighbors on that block?

A Well, not really. We have had some problems with the City vest pocket park.

Q Where is the vest pocket park?

A It is on 87th Street.

Q What side of the street?

A It is on the east side of Columbus Avenue.

Q What has been your experience with that park?

A Well, the 87th Street park block association came in about a year ago to talkabout some of the problems of youngsters playing ball, and playing ball at night, and some of the problems that they have had about people sleeping

or playing stickball when they should have been playing that some place else.

I asked whether or not I could meet with them and we brought the youngsters in and we brought some of the older youngsters in, some of the older teen-agers and young adults, and we sat down with the people on the block and talked about it as a real problem and whether or not we could solve it together, and some of the older kids took responsibility and we painted and cleaned and put up basket ball hoops and lights; we sat down and talked and instead of being foes we tried to work it out in the community.

Q What was the outcome of your efforts in that respect?

A Worthwhile. It is always worthwhile to sit down and discuss those kinds of things rather than just act or deal with rhetoric.

Q More particularly, what was worthwhile about this?

A What was worthwhile was that there was a solution instead of people just hammering at one another or screaming at one another and going to the courts or using means of last resort when there were other resorts.

Q What was your solution?

A The solution was to get people together with ~~diffecent~~ different points of view and hammer out a solution together. The solution was, what can we do about it? Not, what can we moan about?

THE COURT: It is a very good way to put it. A very good way to put it. I have said the same thing to counsel since we began this trial.

Your own witness supports what the Judge told you.

Go ahead.

Q From your general observations of the community, both your own observations and what you hear from other members of the community that you are in contact with through your work, can you tell the Court certain aspects about the neighborhood; are there many complaints about conflicts between different peoples, different races or classes. Can you comment on that?

A You know, when there are conflicts or complaints as you phrase the question, it is not class, it is not a race kind of thing. It is basically an interest kind of thing. I find on my observations on the basis of the question that you are asking it is probably -- this is probabl my own bias creeping in here, but I find it is probably one of the most exciting communities in the City of New York because of the diversity that exists in that neighborhood.

THE COURT: That is the reason why Mr. Douw put the question to you. I have had it, I have been the victim of it ever since I have been able to walk, I have been beaten up and I know all about those horrible problems of misunderstanding. They call it misunderstanding. Sometimes I think that is true. Many times there is a lot of hatred that gets itself out and many of us are the victims of that hatred.

However what Mr. Douw is talking about is a problem that is as old as man. One kind of antipathy or another always existed in the world and I see it in the court. I have seen it as a Judge for all the years I have been a Judge, and he is asking you: What do you see with regard to a phenomenon of human deportment that is as common as anything can be regarded as common? It is a factor. It is a realistic factor.

What do you find in the area where you function on that score? Do you find much of it? A little of it? None of it? What do you say?

A There is some of it, and I think that the some of it that we have is healthy because I ~~don't~~ don't think people are going to solve these problems as isolated human beings. Unless prople confront these problems across those lines of difference we are not going to solve them in isolation,

so I would say in answer to the question yes, there is some of it.

There is some of it in every community.

THE COURT: But is throbbing, is it a daily occurrence?

THE WITNESS: No, I don't find the throbbing on a daily occurrence.

THE COURT: Is it frequent?

THE WITNESS: Not to my knowledge and not in my experience.

THE COURT: That is what we are asking you.

THE WITNESS: Not in my experience.

THE COURT: Next question.

Q Mr. Wohl, are you familiar with the plans for the construction of public housing on the sites known as Sites 30 and 4?

A Yes, I am.

Q You know that there are such plans for construction of public housing?

A Yes. It's adjacent to our day care center.

Q From your experience as a social worker and from your knowledge of the community both as an individual and in particular your position as executive director of Goddard Riverside, do you have an opinion about what the construction of public housing on those two sites will do for the community?

MR. MORRIS: I object, your Honor, on the

ground that this witness is a social worker who works in a community center and therefore is not qualified to answer any question as technical and as broad in scope as that.

THE COURT: I will take his reaction, Mr. Morris, limiting it, however, to the sphere -- his testimony, in other words, will be addressed to what he regards as a social evaluation and only limited to that. That's his field. He works with people. He knows the dwellings, the conditions that go on in living and the various types of living that go on within the area of people who come within the house with which he is identified.

It isn't overwhelming, but it is admissible evidence and it may very well be very valuable. Let's see. You can always make your motion to strike.

Q Do you have an opinion about the construction of public housing on Sites 30 and 4?

A Because of what --

THE COURT: Do you have an opinion?

A Yes. I am sorry.

Q What is your opinion, Mr. Wohl?

A Well, I think it would be healthy, in terms of the question or the point that I raised before, in terms of diversity in that neighborhood. There are many,

many more, in my observation, middle income people than low income people in that community, and I feel that if there were additional low income people in that community it would guarantee the economic as well as the racial as well as the religious and any other differences that separate people.

THE COURT: To what extent would you recommend that that evaluation take place over and above what now exists?

THE WITNESS: Are you talking about percentages?

THE COURT: Yes. Would you say as many or half as many as now exist of the low income group?

THE WITNESS: Well --

THE COURT: Or haven't you an opinion on that?

THE WITNESS: There is a magic opinion in our community, about 70/30.

THE COURT: By 70 you mean middle income?

THE WITNESS: Yes, and 30 low income. I have never bought formulas like that because I don't think they make sense. I don't believe in the tipping theory. I think people run out of fear because they refuse to sit down and talk to one another. We have seen it happen in our agency when we begin to pull people together across those lines. So I can't answer your question from

the point of view of a percentage.

THE COURT: From your point of view, disregard what other people contend, what do you contend? Are you saying to me, "Judge, if all those buildings were inhabited by people of low income and if we were somehow able to reach them and they were able to have confidence in us, that would be just as much a model community as the community produced by the 70/30 ratio or formula? Is that what you are trying to say?

THE WITNESS: No, because if it was all low income, I would say the next project ought to be middle income.

THE COURT: What do you say?

THE WITNESS: I am saying, on the basis of my understanding and knowledge of that community right now, more low income people are needed in that community.

THE COURT: But you are not prepared to say how many?

THE WITNESS: I am not prepared to say what percentage.

THE COURT: All right, there is his answer.

MR. DOUW: May I have a moment to confer, your Honor?

THE COURT: Certainly.

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(Pause)

MR. DOUW: I have no further questions.

THE COURT: Mr. Land.

DIRECT EXAMINATION

BY MR. LAND:

Q Mr. Wohl, you mentioned that you had two pre-school programs. One you called a pre-school program and one a day care center, did you not?

A One I called a Head Start Program and one I called a Day Care Program. Both are pre-school.

Q You have facilities for the -- perhaps you can tell us, what is the Head Start program that your community center operates?

A Basically an educational program --

THE COURT: Financed by the federal government?

THE WITNESS: Financed by the federal government. The Head Start program was basically a program out of the Office of Economic Opportunity and what it's intent did and has done is to give youngsters a head start before they enter the public school system, whether it's with verbal skills or conceptual skills. It's a pre-school educational program.

Q Let's stay with Head Start. How many children does your program administer?

A 70 youngsters.

Q Do you have a professional staff that is trained for their education?

A Yes, we do.

Q Do you provide them with food and other amenities?

A Yes, we do.

Q Is there any other Head Start program in the community other than what Goddard Riverside office?

A Yes, there are.

Q There are others?

A There are four other Head Starts.

Q As a result -- let me ask you this question.

Does the Head Start program cater solely to those families of low income?

A The Head Start program primarily ~~doesn't~~ doesn't but those income levels have been raised over the years.

Q As a result of the Head Start program, what have been your findings as to the stability of the families from which these children come?

A Well, the follow-up that we do with the families as well as the public schools that these youngsters go into in our community has been very positive. Those youngsters that have been in this program have

progressed academically once they have entered the public school to a much greater extent than those youngsters that had not availed themselves of this kind of program.

THE COURT: In other words, those who are willing to be helped and respond to that help affirmatively will be the beneficiaries and do better?

THE WITNESS: That's correct.

Q Are all the vacancies for Head Start youngsters filled?

A Yes, they are.

Q I presume you have a waiting list?

A Yes, we do.

Q In other words, the willingness is overwhelming?

A Yes, it is. We don't have the facilities at this point.

Q For every dollar you have for Head Start you can use ten more?

A I think at this point -- I can't attest to the accuracies at this point, but I think at this point we have 70 additional -- between 70 and 100 additional families who want to go into the Head Start program and somewhere like 150 -- 120 to 150 additional families who want to avail themselves of the services of the Day Care program.

Q Have you had occasion to speak with the parents of the children who participate in Head Start?

A Not only have I had occasion --

THE COURT: That's all you can say is yes or no.

A Yes.

Q What is the parents' attitude toward Head Start?

A Very positive, extremely positive in terms of the young learning.

Q Does the Head Start program give the parents the opportunity to seek employment?

A Yes. As a matter of fact, there are people who are on our staff who work with parents around education and employment. That is an integral part of the program, not just working with youngsters.

Q Explain it in detail.

A There is a social service staff attached to the Head Start program and their job is to work primarily with the families, with the adults of the youngsters whom we serve.

Q About how many professionals are on your staff to do this service?

A On the Head Start staff?

Q Yes.

A In the neighborhood of ten to twelve.

THE COURT: The Head Start personnel is furnished by the government; they ~~occup~~ occupy your facilities and they work with you and your staff but they are in the main financed and supplied by the federal government?

THE WITNESS: They are financed and supplied by the federal government but we are the sponsoring agency, so they are responsible basically, as the sponsoring agency, to Goddard Riverside.

Q Could you tell us something now about the Day Care Center?

A The Day Care Center is education and very similar to the Head Start program, the difference being that these are mostly youngsters of working parents and it is on a full day basis rather than on a half day basis as the Head Start program.

Q How many children are in your Day Care Center?

A There are 72 youngsters in our Day Care Center program also.

Q Does the Day Care Center also service the needs mostly of the low income families?

A The Day Care Center runs the gamut. It services low income families, it also services middle income families.

Q Is there also a follow-up program with those families who find themselves in need of some social help?

A The Day Care program also has a social service staff, psychological counseling, testing services as well.

Q And how has the success been of the two programs, the Head Start and Day Care Center?

A Not 100 percent but it's been overwhelmingly positive in terms of the reports that we have gotten back from the public schools that these youngsters have entered after having been through our program.

Q Has the Head Start program and the Day Care Center program contributed to the stability of the neighborhood?

A Yes.

Q Next to the pre-school program you mentioned a number of youth programs.

Could you be a little more specific exactly the number of youths that the Goddard Riverside Community Center has served, an approximation?

A I would say somewhere in the neighborhood of between, directly or indirectly, and I will explain that, somewhere between 1,000 and 2,000 youngsters a year, and

I am saying directly or indirectly, whether it is on the basis of referrals to other agencies, whether these are kids that participate in our leagues or these are youngsters that go to our camping program and all the other programs, rather than be redundant, that I have mentioned up to this point.

Q The youth program I assume includes those youngsters who are pre-teens, teens and young adult?

A Yes.

Q There has been considerable testimony in this case that the young people residing within the area tend to be destructive of other people's property.

Have the young people vandalized your center?

A No. Our center has never -- since I have been there, neither of the sites, whether it's Day Care, whether it's the community center, whether it's our camp or whether it's the brownstone that I mentioned earlier in my testimony on 87th Street, have been vandalized.

Q What kind of facilities do you have at these various places for the youth?

A It's basically club rooms, recreation rooms, auditoriums. A facility doesn't describe a program, but it's rooms.

THE COURT: He has a motive in that. He has

to ask questions and then you just answer them. What kind of equipment? He is undoubtedly going to try to show me that the equipment was left alone. I think that would be fortunate. The Youth ~~Settlemen~~ Settlement has had all their typewriters taken out and a lot of its material destroyed, an enormous amount of vandalism. All that sort of thing has happened. If you have a wonderful record, let's have it. It's heartening.

THE WITNESS: We have craft shops --

THE COURT: There is equipment. Give us a listing of the equipment. You see, these are the things that the kids can grab. If they don't take it, good. That's his point. What kind of equipment have you got?

THE WITNESS: Do you want me to list athletic equipment?

THE COURT: Most of it, sure.

THE WITNESS: I can talk to you about bats and balls and gloves and clay and ceramic kilns and movie projectors.

THE COURT: That's it.

THE WITNESS: I can talk to you about typewriters and office equipment, tumbling mats.

THE COURT: None of which is fastened down, right?

THE WITNESS: None of which is fastened down.

THE COURT: All right.

THE WITNESS: And none of which has taken legs either.

Q I don't want to be redundant but just for the purpose of completeness, what type of equipment do you have in your craft shop? You say you have kilns and they are heated to a hot degree and brittle kilns someone can take a bat to and break them up, I presume.

A Yes.

Q Has that happened?

A No. None of our equipment. We have a barometer which is a very sensitive temperature dial that sits in front of that kiln which could be just punched out. None of our equipment in the time that I have been at Goddard Riverside has been vandalized or pilfered.

THE COURT: You have a complete answer. What else?

Q You mentioned a music room and I believe a record player?

A Record player, records, piano.

THE COURT: Counsel, please. I want to help you, I want to get things out but we dont need to have a

listing of every last item. He tells us enough to make it quite clear that there are articles the children would be interested in getting their hands on and removing and yet they have not done so.

MR. LAND: One last point and I will be off it.

Q Office equipment, you have typewriters and tape recorders, that type of equipment. Do the youngsters have permission to use these for their own needs?

A They work on it for their newspaper.

Q Do they damage it or steal it?

A No. We teach them how to use it.

Q Okay.

A No, they don't.

Q You mentioned a counseling service. Can you give more detail about your counseling? Is this psychological counseling for kids who feel disoriented with life?

A It's psychological counseling. It's not just youngsters. It's the senior citizens I have talked about, it's the parents in the neighborhood I have talked about. It's not just the youngsters. It's related to future or going further on in school. It's related to job placement or job kinds of counseling. It's related to personal problems within a family. It could be siblings

within a family, it could be a marital problem, it could be a housing or rent problem. It really runs the gamut of human problems.

Q I presume that you have a professional counseling staff, do you not?

A We have people on our staff who handle counseling. If we cannot because of our load, we will refer them to other organizations in the community who can handle that.

Q You mentioned something about the Police Department. Does your center work in connection with the Police Department on problems which do arise with young people in connection with crime?

A Yes. As a matter of fact, we do. I mentioned that we have a program that was called Operation ~~Fried~~ Friend where the police have come to our center to talk with young people, have used Fort Totten to have a dialogue with young people as well as adults, have used our camping program. The police next week will be helping us raise some money for scholarships in order for youngsters to be able to go to camp this summer. So we have a good relationship, I would say, with the local community relations center in our precinct and they know who we are and we know who they are.

Q Do I take it the relationship with the police has been successful as a whole?

A I think it has been.

Q Has that contributed to the stability of the community?

A Yes.

Q Your camp, you didn't give us the size of the camp at Rifton, New York. What is the size?

A It's 300 acres.

Q I presume there is a stream or a pond?

A A swimming pool, hiking trails, there's cabins, some of which I mentioned to you were winterized because we use it all year round. It's not just a summer program. It's got meeting rooms, it's got dining halls, it's got living facilities and in some places it has the normal amenities and in other places it doesn't have the normal amenities.

Q You mentioned that you have a working relationship with other community institutions. You mentioned something about other schools. Can you tell us a little more in detail what schools your center works with?

A You mean other than the public schools?

Q Yes.

A Well, the three independent schools that we

have worked with in our community and have been cooperative with has been the Walden School, The Trinity School and Columbia Grammar School.

Q What is the nature of the cooperation you referred to?

A In ~~WAlden~~ Walden they give us the use of their facilities for our summer day camp program because we are just deluged with youngsters and we need additional space and they have been most cooperative with us. They have also had student work with us in our day care program as help, as a learning experience for them.

The Trinity School, which is right across the street from our day camp center as well as our community center has graciously let us use their auditorium for concert programs that we have during the winter where local artists would perform or plays would go on or will be using it tomorrow night for our annual show because the community center's facilities are not adequate for that kind of event in the community. Trinity School has also given us their gym to use during the winter months for two nights a week because we don't have a gym in our community center and, again, they have been most gracious in affording us the use of that kind of space.

The Columbia Grammar School has let us use their swimming pool for some teaching programs for younger kids to help allay some of the fears that youngsters have around the water. But those are the three independent schools that are in our immediate community and the cooperation has been a mutual one. I think also Trinity School has had some of their youngsters working in our day care program as volunteers.

Q This inter-cooperation between the center and these private schools, has that been a favorable relationship?

A I think it has been.

Q Did that contribute to the stability of the community?

A Yes.

Q Has it contributed to the interaction and the understanding of problems that may exist between persons of high and low and middle income who live in the neighborhood?

A Absolutely.

Q One of the often untouched measures of the life of a community is the attitudes of people and some say it can not be measured.

MR. LAND: Mr. Morris stands.

MR. MORRIS: Counsel is on direct examination and not cross, and I think that's a very argumentive question. He objected constantly during my examination as being leading. I think he is now making a speech, not leading.

THE COURT: He is anticipating. He wants to thwart your cross and give you a real tussle. I think he has that right, but no elaboration, please.

MR. LAND: I want to put it in a proper frame.

THE COURT: He has been around. Just fling the question at him.

Q Based upon your understanding of the community as a whole both as an individual and as a professional, could you tell us what the general attitude of the people within the community is for the future?

MR. MORRIS: Objection. He doesn't know what the attitude of the people in the community is as to the future.

THE COURT: There is no foundation for that. Objection sustained.

MR. LAND: Maybe I can attack it a different way.

THE COURT: It's up to you.

Q Mr. Wohl, I take it you have had the opportunity to talk to literally hundreds of people in the west side area.

THE COURT: You're supplying the information. There are really hundred of people. Strike that. You are suggesting. Put your question another way.

Q Mr. Wohl, could you tell us the types of people and the approximate number that you have spoken to in respect to all the programs that you have just described to us?

A The types of people, did you say?

Q Yes. People of all races or limited races, all incomes?

A I have spoken to the conglomerate that I described this community is made up of. I have spoken to people of different racial, ethnic origin, I have spoken with people from different economic backgrounds, brownstone owners as well as inhabitants of Central Park West as well as inhabitants of Mitchell-Lama housing as well as youngsters and the parents of the youngsters in our program. I have spoken to people in local block associations. I think I have spoken to the gamut, but I would hesitate to put any kind of number on it because I don't clock myself that way.

Q Can you tell us approximately how many people? Let me ask you this --

A Hundreds.

Q Have you spoken to enough people that you have an opinion as to the attitudes of the community towards the future?

THE COURT: You had better tell him what you mean by the community.

Q What I am driving at is to find out whether the people living there are generally satisfied with the quality of life they are experiencing or finding the problems that they have so overwhelming that they are generally disoriented and disgruntled with their state of life.

MR. MORRIS: I object to that.

THE COURT: I think, Mr. Land, you tried, but I can't see how you can expect this witness, who has programs of every kind ongoing at all times and is a busy executive of a settlement house with children looking for a helping hand, with old folks, with people who don't speak the language too well trying to communicate with all kinds of people in a terrific undertaking.

But is that enough to enable this man to undertake such a heavy responsibility of answering your question?

I don't think we ought to put it on him. I will sustain the objection.

MR. LAND: Okay.

Q Have you had contact with the elderly living within the community and discussed with them their concern about crime?

A Yes.

Q Could you tell us what their concern about crime is?

A Well, the overwhelming number of senior citizens that I have spoken to are basically the senior citizens who are part of Goddard Riverside's program.

THE COURT: What is their attitude, limiting it to those people, for instance? What do you gather?

THE WITNESS: I gather that there are some fears but I have never been told of specific crimes by senior citizens to me.

THE COURT: Do some of them entertain fears with regard to crime?

THE WITNESS: Yes.

THE COURT: And is that on rare occasions, is it frequent?

THE WITNESS: In all the discussions I have had with senior citizens, there have been many of them, I go over

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there often and talk to them and have lunch with them, that is not an overriding concern.

THE COURT: There it is. Next question.

end take

MR. LAND: No further questions.

THE COURT: Mr. Liner, did you wish to ask any questions?

MR. LINER: No questions.

THE COURT: You may cross-examine, Mr. Morris.

MR. MORRIS: I have no questions.

THE COURT: You are excused.

(Witness excused)

MR. DOUW: I call to the stand Mrs. Julia Matlaw.

J U L I A R U D Y M A T L A W , called as a witness by defendant Strycker's Bay Neighborhood Council, being first duly sworn, testified as follows:

THE COURT: Did you hear what I said to the other witness about just answering? I didn't succeed too well with him.

Please remember that wherever you can you are to answer yes or no, unless you are called upon for an explanation. That's the law. I don't want you to make it embarrassing for me so that I have to interrupt and strike your remarks, and all that sort of thing.

THE WITNESS: I shall try to be temperate in

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in my responses.

THE COURT: Just be truthful.

THE WITNESS: Insofar as I can recall.

DIRECT EXAMINATION

BY MR. DOUW:

Q Mrs. M[illegible], where do you live?

A I live at 43 West 93rd Street in apartment 14.

Q That is within the west side urban renewal area?

A Yes, indeed, it is.

Q Can you describe what describe what kind of building it is that you live in?

A I live in what is known in urban renewal terms as a conservation building. It is an eight-story building erected, I believe, around 1905. It is a building containing five, six, seven and eight-room apartments with delightfully high ceilings and rather old fashioned plumbing.

Q Is it a rental apartment or a co-op?

A This is a rental building. Our landlord --

THE COURT: That's the answer. It's a rental building.

A We want to be a co-op but he wouldn't sell it

to us.

THE COURT: You were not asked that.

A Please ask me that so I can answer.

Q How long have you lived at your present residence?

A We moved there on August 1, 1957.

Q Would you describe your family?

A My family consists of my husband, who is a college professor, my daughter, who is a 22 year old would-be law student, and my son, who is a 19 year old college student.

Q At the time that you moved to 43 West 93rd Street, where had you lived previously?

A Well, I grew up and lived in Atlanta, Georgia, or in the country in DeKalb County, Georgia. I went to the University of North Carolina. I went to the University of Chicago where I met and married my husband and my children were born.

We lived one year in the south and one year in New Jersey. When we lived in New Jersey that is where we lived shortly before coming to New York.

Q Could you describe to us the reasons for your moving to New York City?

A We moved to New York City because my husband

was working in the city. We found that he needed to work in libraries. He needed to be in town at night. I was spending a great deal of time and money going to the Lincoln Tunnel and taking the bus across, and I wished to have my children near my husband's work so as to have a family life.

I also found suburban living -- this was a suburban community and I being a country girl found suburban living very difficult.

I grew up in a small southern town where there was a great mixture of people, and I found a need for my children to be exposed to a wide mixture of people. This is a personal preference. We found the suburbs boring and I found them constricting.

Q When you moved to West 93rd Street did there come a time when you were involved in your block association?

A Yes, I became involved in my block association right away because I also grew up in a tradition --

THE COURT: I'm sorry, madam, but you were asked --

A I did.

THE COURT: The answer is yes?

THE WITNESS: Yes.

Q Would you describe during what times you were involved in the block association?

A I became involved in the block association or in activities in the block which led to the block association in September of 1957.

Q How long were you involved in it? Until what time?

A I am involved until this day except for two years when my husband was away -- when my family was away from the city.

Q Did you have a leadership role in your block association at any time?

A Yes, sir. I was chairman of the block association.

Q During what years?

A From 1957 until 1968 with the exception of 1964-65, when I was away.

Q While you were chairman of your block association did you become familiar with the plans and execution ofthe West Side Urban Renewal Plan?

A Indeed. I went to all hearings --

THE COURT: That's all you can answer.

A Indeed I did.

THE COURT: Next question.

Q Was your involvement with respect to your block in particular?

A In my block in particular, yes, and also to the whole area. It's my neighborhood.

Q Could you describe to the Court what your own reactions were when you first heard about the urban renewal plan for the area?

A I was at the time -- at the time I had very mixed feelings. I was greatly concerned because of the housing needs on the block. Except for my building and one other building the housing, or two other buildings -- well, no, that's not true. Excuse me.

There were about five fairly standard well maintained buildings on the block. Then there were brownstones in various states of occupancy and disrepair. There were five-floor walkups in similar mixed conditions, some of them were what is called SRO's, and others were walk-through apartments.

We knew each other on the block and it was very discouraging to go in all the time and fight a losing battle against very difficult housing.

We organized a block organization because a child was bitten by a rat, so we had a great feeling that we needed decent housing for people.

On the other hand, my own family's experience in the south and what I had seen happen just to the north of us in what is now Park West Village, frightened me because I saw that the fact that you built new housing did not necessarily mean that that housing benefited the people who were living in the terrible housing that existed.

So one had fears. It was a very really different kind of feeling. One realized that people were living in terrible housing. On the other hand, one also realized that sometimes when housing was torn down it was not -- people didn't always get into good housing.

Q As the plan finally developed about 1962, were you familiar with the provisions related to it for relocation of the families affected?

A Yes. I was apprised of that. I studied them and knew them.

Q Could you describe the relocation plans as you understood them with respect to the people you were familiar with on your block?

A Yes. My feeling, my understanding, whether this was justified or not, I don't know, was that the people living on my block would live in better housing than they were living in then, that what we were building in the neighborhood -- I was in a rent-controlled building so I

had it made, but that other people would be able in the neighborhood to live in new buildings and they would be able to have decent housing. We had, you know, for everybody, we had a large number of what would be called working poor, people who worked but could not afford when they went looking for housing much in the way of it.

Q Did you understand the plan to provide for a right of return for the people affected?

A Yes. I understood that people who had moved from the site had priority to return to that site and that people who moved out of the area had priority to come back to the site. That is what I told my areas who trusted me.

MR. MORRIS: I move that the answer be stricken, your Honor. This lady is not competent to testify as to what the rights are of families who are relocated from a site. She is a tenant in a building who has lived in the area. She is not qualified to testify as to the rights of relocatees or anything in connection with it.

THE COURT: I don't take her testimony on that basis. I will be interested in learning what she observed as to the problems of housing in the immediate vicinity and to that extent I will take it, but I must caution you, Madam, that these problems are not new to me. I have lived them. I know all about them. I have seen them

in my own private life, and I am going to ask you for the last time to remember you are a witness, just to answer the questions that are put to you, otherwise I am going to strike your testimony .

THE WITNESS: All right. He asked me what I thought --

THE COURT: Listen to his question and answer it directly and remember this is not a place for pleasantries or for showing your great ability which I undoubtedly am sure is in your favor.

All I want to know is your testimony under oath according to the rules of evidence and not according to the way you would speak if you were addressing with equal sincerity a group of people whose interest you were trying to capture in order to help other people, people other than yourself. I give you credit for that. You are now in a court. You must remember that you must answer the way the Judge told y ou. Don't override me.

THE WITNESS: I certainly will not.

THE COURT: Whether you like it or not I am presiding here. This is my job for the rest of my days.

Next question.

Q Mrs. Matlaw, did you discuss with individual families on your blockthe relocation provisions?

A Yes, we did.

Q Was there a great deal of fear in your block about what the relocation might provide?

MR. MORRIS: Objection, your Honor.

THE COURT: I will take it.

Was there a great deal of fear in that respect?

THE WITNESS: Yes, sir. There was.

Q What did you say to families that you talked to?

MR. MORRIS: Objected to.

THE COURT: I will overrule the objection.

What did you say to families with regard to that?

THE WITNESS: I said to families that it was my understanding that they would have a right to be relocated in the community and that insofar as possible it was my understanding from going to many meetings about this situation so there was a great deal of activity in it; it was my understanding from what I learned at the meetings and other places that they would, every effort would be made to provide them housing while they waited.

MR. MORRIS: I will ask her answer be stricken on the ground it was her understanding and her understanding is not testimony.

THE COURT: It is testimony that I will allow to stand. The weight to be given to it is entirely another matter. I will take it and leave it where it is.

Mr. Douw, you might ask a leading question in order to come to the purpose for which you called this witness.

Q Have you been involved in relocation efforts in connection with Strycker's Bay?

A Not directly.

Q Do you still know individual families that were dislocated from the area or from your block that you were familiar with?

A Yes, I do.

Q Where are those families located?

A Some of them are in East New York and some of them are in the South Bronx.

Q Have you visited them in East New York and the South Bronx?

A Yes.

Q Are they friends of yours?

A They are neighbors. They are not personal friends, they are neighbors.

Q Do those families still look to return to the area?

MR. MORRIS: Objected to, your Honor.

THE COURT: Yes. I am going to sustain that. Objection sustained.

Q Do you work?

A Yes, I do.

Q What is your job, please?

A Teacher, coordinator at PS-84.

Q Where is that located?

A 32 West 92ndStreet.

Q What kind of school is that?

A It is a New York City elementary school covering pre-kindergarten through Grade 6.

Q Would you describe your duties?

A My duties are largely administrative with some teaching. I provide occasional preparation periods for teachers, that is, elementary schools are allowed -- teachers are allowed one free period a day and I sometimes cover classes so they are allowed that preparation period.

THE COURT: Forgive me. I am sure you said it. How long have you been so identified?

THE WITNESS: I worked there since November of 1969.

THE COURT: Just where is it located?

THE WITNESS: 32 West 92nd Street.

THE COURT: That is --

THE WITNESS: In the same block on 92nd Street -- in the park block on 92nd Street. It is around the corner from my house.

THE COURT: Next question.

Q When you moved to your present residence your children were youn g, is that correct?

A They were three and five.

Q Did you at one time send one of your chi-dren to PS-84?

A It was not then PS-84. It was PS-93.

Q How long did your children attend that school?

A She attended it for her kindergarten year. I enrolled her for the first grade, but I didn't send her there.

Q Why not? Why didn't you send her there?

A I didn't send her there because I found it difficult to accept her class placement because of racial and economic m akeup of the class. The class was all white except for two children and I inquired of the principal why this was so because I had felt that I would have an integrated class since I lived in an integrated neighborhood and I had a big fight with him. He said it was because they were -- it was really that I could not agree with

his method of placing children.

MR. MORRIS: Objection, your Honor, and I move it be stricken.

THE COURT: I will let it stand.

MR. MORRIS: May we have the time fixed?

THE COURT: When was this, Madam?

THE WITNESS: This was '58.

Q Where did you send your children after that?

A To the Alexander Robertson grammar school. It was a church grammar school.

Q A private school?

A Yes.

Q From your connection with PS-84 if you had young children would you send them there today?

MR. MORRIS: Objection.

A Yes, I would.

THE COURT: Objection overruled.

Would you send them there today?

THE WITNESS: Yes.

Q Can you describe for the Court the ethnic makeup of PS-84?

A It is 40, 30, 30, give or take one percentage here and there. 40 per cent Spanish, that's Hispanic, 30 per cent other, that is Caucasian, that is largely

Jewish with about, in terms of religious background, 12 per cent Oriental -- that Oriental is Chinese-speaking Chinese; approximately 30 per cent black -- that black population includes a small French-speaking Haitian population. The Haitian population was largely bi-lingual.

Q In the time you have been connected with that school can you describe how the ethnic breakdown has changed if it has changed at all?

A The ethnic breakdown has not changed since '69.

Q It has remained stable?

A It has remained -- it has remained about the same, give or take one per cent or two per cent here or there.

Q In your position do you have the opportunity to talk with parents of the children?

A Yes. A great part of my work concerns that.

Q Do you have an idea of the different economic backgrounds of the parents and the children that attend PS-84?

A I have an idea, yes.

Q Could you describe to the Court what those economic backgrounds are?

A Economically the backgrounds of the children are quite varied. We have children from Central Park West buildings. 322, 327, 350, 325. In that area we have

a few -- we have a few brownstone children, not so many. We have a good number of children from the big highrisers in the urban renewal area. We have children from public housing. We have children who are members of Operation MOVE-IN, so there is a great variety -- there is a great economic diversity in the school.

Q Are you able to assess from your position whether families seek to get their children into PS-84?

MR.MORRIS: Objection.

THE COURT: Objection overruled.

Now you may answer.

THE WITNESS: May I -- I did not understand him. May I ask him to repeat the question.

THE COURT: You may.

(Question read.)

A Yes.

Q Could you describe that for us, please?

A Part of my job is the supervision of what is called pupil accounting in the school and that includes the admission to the school. We have many families calling us up asking us whether or not -- whether the apartment they are looking for or planning to rent is in our district. We have many written requests and several requests asking us whether it will be possible for us to waive district

requirements in order to enroll children in our district, and we have recently, because of budget restrictions and the fact that the school is not overcrowded by city physical limitations, but it is very large for an elementary school, required rigid evidence as to where people live and once we had to quit requiring a telephone bill because one lady paid to have a telephone in her name put in a house on 95th Street so she could present me with a telephone bill.

Q From the various requests and inquiries that you receive are you able to make an assessment as to the economic background of the people who make these inquiries?

A The inquiries that we receive are largely, I would say, middle class professional people who make this inquiry.

Q Could you describe how you can make that assessment of the inquiries by phone and letter and so forth?

A Because of the buildings they tell me they are looking into.

THE COURT: That is an answer. The rent they are going to pay shows where they belong in the economic spectrum.

Q One final question about your school: Canyou describe the jurisdiction it covers?

A I am going to try to be as precise as I recall.

The school's jurisdiction extends from Central Park West to Riverside Drive on 90th Street, 91st Street, 92nd Street, and 93rd Street. The district's boundary then goes down Central Park West to 97th Street. It encompasses the south side of the park block on 97th Street. We come down the east side of Columbus Avenue to 94th Street and then there is one house on 94th Street which has -- in the second block from the park, the 100 block -- permission to be included in 84th, and that is it. I think that encompasses it, back to 93rd where it goes all the way down.

Q I would like to ask you about the immediate area about where you live today. Could you describe some of the buildings that are in your immediate vicinity?

A I will describe my block to you. My block consists of the two Central Park West buildings which are sturdy, sound, and inexpensive.

On the south side of the block there is a closed up building, a rather large apartment building that has been closed up by the city andis still standing, that is Number 4.

Q Is that building empty?

A Yes. Next to that is the vest pocket park.

Next to that is a relocation building which is Number 10.

Next to that is an unsightly vacant lot, and next to that is Number 50, which is Westwood House, I believe it is called.

Then there is a little park and then there is Columbus Manor.

On the other side, next, coming from east to west, there is Columbia grammar school; there is what is called 9G. which is a brownstone converted co-operative that won all kinds of prizes. Our building.

Q What is the economic nature of that?

A I should think it is upper middle class, although it was cheap to buy, it is expensive maintenance.

My building, and then there is the garage with the basketball court over it, and the Strycker's Bay neighborhood co-op on the northeast corner, and across the street from that is Columbus Manor on the southeast corner.

THE COURT: Mr. Douw, do as you wish. This lady has some good information in certain areas particularly, but I have been sitting since 9:00 this morning and I will not sit beyond 9:30. I already told you that. I am going to make a suggestion. Put leading questions to her. It is all right with me. I will take Mr. Morris' objections and try to figure out how we can get her testimony and have him have his chance for cross so the lady will not have

to return. That is up to you.

I am trying to make a suggestion. Do with it what you wish.

MR.DOUW: I will try to finish this evening. I have a few questions about her observations about the area she just described.

Q Do you have any complaints, Mrs. Matlaw, about noise in your immediate neighborhood?

THE COURT: Yes or no to that.

A Yes.

Q What is the source of the noise?

A All of us make noise out of our windows. The source of the noise in my building is the composer and his drummer son who have jam sessions, and the three kids who go to Music and Art and practice on their instruments, and radios and televisions from across the street.

THE COURT: I take it that doesn't offend you? That doesn't bother you?

THE WITNESS: It depends on how late at night it is.

THE COURT: Up to a certain hour you can take it in stride without being bothered?

THE WITNESS: Yes.

THE COURT: What is the hour you feel they should stop?

THE WITNESS: I like to go to sleep at eleven o'clock during the week.

Q Does any of the noise come in particular from Westwood or Columbus Manor?

A No. They make no more noise than the rest of us.

Q Does it come from the building where there are relocatees?

A They are quieter than the rest of us.

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Q Do you have any complaints in your immediate vicinity about garbage?

A Well, my immediate vicinity happens to be my own house and we are distressed about the garbage in front of our house. It is our own garbage disposal that is bothering us. There is no garbage problem per se on that block.

Q Is that a problem in Columbus and Westwood Manor?

A We have no problems.

THE COURT: There it is.

Q Do you have any congregation of people around Columbus and Westwood?

A No.

Q Do you have any problems with derelicts or people sitting around drinking beer or anything of that sort? Is that a matter that you observed in any particular way?

A No. The people --

THE COURT: No is perfect. You can't improve on that no matter what you say. If no is the answer, that's it.

Next question.

MR. DOUW: Thank you, your Honor.

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THE COURT: Mr. Land, anything further?

MR. LAND: One or two questions.

DIRECT EXAMINATION

BY MR. LAND:

MR. LAND: Just a few quick questions.

THE COURT: That's what you always say. Go on.

Q Are you familiar with the deportment problem in P.S. -- is it 86?

A 84.

Q Are you familiar with the deportment problem of children in 84?

A The discipline problem?

Q Yes.

A Yes.

Q Would you describe it?

THE COURT: Now you can give a full answer.

THE WITNESS: All right, I can give a full answer.

A I am trying to think of how to give you a full answer.

In the time I have been there, there has been a decided decrease in the nature -- there has been a change in the nature of discipline problems and a decided

increase in the number of them. I mean I have my own theories as to why but that is not what you want.

THE COURT: No.

A We don't have, for example, what I had when I first came there, which was what might be called huge rumbles. I spent my time trying to separate groups of kids who were bent on mayhem. I would say that there are, depending upon the weather and whether it's kids who have had tests all week or raining all week, fights between kids, that is, two kids squaring off against each other and having a fight and kids may need to fight but you can't have it going on in a school all the time.

There are occasions when an occasional child is unruly in class and despire all the support and help you can give the teacher and the guidance counselor, you need to have his parents in and deal with that.

Then there are occasions when children take things from each other. Not so many, but this is a school with over 1000 kids and every now and then you will get kids ripping off another kid and you have to deal with that directly and see to it that restitution is made.

There is not -- children are not really terribly destructive, although recently there was something in the boys bathroom on the third floor. It

is interesting to know the boys on the third floor were very upset about it. It had recently been painted by a custodial staff member and today the boys themselves were very upset about it and organized a group of boys to clean off the marked door and to restore the bathroom.

We try to handle discipline in that way in terms of getting kids to work on their own problems.

Occasionally you have a child who really can't cope with living in a school community and in that case we have a guidance staff that works with the parents in making a plan and trying to discover resources in the community to serve that child.

It's a fairly happy school in terms of kids. If kids are happy they don't fight so much.

THE COURT: Regardless of the outcome of the case, madam, and regardless of the Court's evaluation of your testimony, this much we can say with a fair degree of positiveness. The school is fortunate in having you. What else?

Q One last question.

Can you describe the conditions of the homes in which the relocatees on the west side currently reside as to East New York and South Bronx?

A You mean those particular families?

Q Yes. Describe the conditions of the home.

A The South Bronx apartment is a nice five-room area apartment in a walk-up building. During the last five years the maintenance of the building has deteriorated rapidly. The bread winner in the family, the father, has great difficulty getting back and forth to work. He works in the garment center and it is a difficult and long trip, and the mother has on occasion taken the children back to Puerto Rico because it's a very dangerous neighborhood for kids. Her children are approaching adolescence and there is a great deal of narcotic activity up there and her girl, she is particular afraid of, has been attacked once on the street and she is very fearful. It is an uneasy situation.

The East New York families, one of them was not getting help from welfare. She is now because she got sick and lost her job. The others are welfare families and that is a fairly desparate situation because although the buildings were adequate when they went in, that neighborhood became more and more unstable. They moved in there in '64 and I gather the people there claimed that that kind of moving, quote, tipped their neighborhood. I don't know whether it's true or not, but the building next to them is abandoned, and I would say they feel

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pretty hopeless.

MR. LAND: No further questions.

THE COURT: Did I ask you, Mr. Liner, if you want any questions?

MR. LINER: No questions.

MR. MORRIS: No questions.

THE WITNESS: We can all go home?

THE COURT: Thank you, madam.

THE WITNESS: I wish you would come and see us.

THE COURT: I am sure I would be edified and feel very good. It is very heartening when we hear so many distressing stories that we have people who care enough to give of themselves. That is such a wonderful thought to conclude the proceedings. I will tell you that.

Is there something we can be doing for the next fifteen minutes?

MR. DOUW: As you realize, your Honor, I have two witnesses.

THE COURT: You want to get started with them?

MR. DOUW: I say those were the only two I had.

THE COURT: Have you any proof here, Mr. Land?

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MR. LAND: No. I thought there would be cross examination of the two witnesses.

THE COURT: Mr. Morris has wisdom and he decided not to cross examine. There is great wisdom in not cross examining on occasion.

MR. DOUW: Your Honor, there are perhaps -- I don't know if we have them right now. There are a couple of exhibits that might be entered at this time on stipulation if you would like to spend the time or another time.

THE COURT: Mr. Morris, how about that? Are you too tired?

MR. MORRIS: No.

THE COURT: We can get that much done.

MR. DOUW: One of the items I don't seem to have with me but you may recall Mr. Fried when he was testifying referred to an article in the New York Times about Park West Village. We have located that article and he confirmed that is the one he was referring to and I believe your Honor wanted to have it as an exhibit and we can stipulate to it.

THE COURT: No objection?

MR. MORRIS: No objeciton.

THE COURT: Mark it in evidence, Mr. Clerk,

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please.

(Defendants' Exhibit AE was received and marked in evidence)

MR. MORRIS: What is the date of that?

THE CLERK: May 18, 1972.

MR. DOUW: The other item I am afraid I can't find.

THE COURT: All right, tomorrow you do likewise.

Mr. Land, something occur to you?

MR. LAND: No, your Honor.

THE COURT: How about you, Mr. Liner, do you have anything on your head?

MR. LINER: No, your Honor.

THE COURT: Thank you, gentlemen, and we start promptly tomorrow morning at 10:00 o'clock.

Mr. Clerk, would you be good enough to announce a adjournment until 10:00 o'clock tomorrow morning.

THE CLERK: Court adjourned until tomorrow morning at 10:00 o'clock. All rise, please.

(Adjournment to 10:00 a.m., May 15, 1974)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Roberta Brandes Gratz	2973	3027	3072	3074
John B. Maylott	3077	3108	3126	
David J. Goodman	3128	3148		
Robert G. Hazen	3153	3179		
David S. Olinger	3186	3197		
Bernard J. Wohl	3214			
Julia Rudy Matlaw	3252			

EXHIBIT INDEX